



Minneapolis Police Department Policy and Procedure Manual

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Volume Nine – Enforcement Policies

Adult Stops, Searches, and Seizures

9-110 Warrantless Searches

(xx/xx/xx)

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I. Purpose

This policy establishes procedures for the Minneapolis Police Department (MPD) to conduct lawful and non-discriminatory searches and seizures in compliance with federal, state, and local laws, ensuring the protection of a person's privacy and dignity. Members shall adhere to all relevant guiding principles listed in P&P 9-101.

II. Search Warrant Generally Required

Searches must generally be made pursuant to a warrant, except in the limited circumstances detailed in this policy ([IV]).

III. General Warrantless Search Procedures

A. Scope of Justification

Members shall not conduct a search beyond the scope of the underlying justification for the search. Any search conducted past that point requires either a warrant or an exception to the search warrant requirement (as detailed in [IV] below).

B. Warrantless Search Justification

1. Probable cause and reasonable suspicion

Reasonable articulable suspicion (RAS) and probable cause (PC) must be based on specific and objective articulable facts or observations about how a person behaves, what the person is seen or heard doing, and the specific circumstances or situation that are either witnessed or known by the member. The mere speculation that a person has committed a crime is not sufficient justification for a search.

2. Demographics and physical characteristics

When establishing RAS or PC for a warrantless search, and except as provided in P&P 5-104, members shall not consider a person's protected class status, or substitutes for, or stereotypes of race or national origin, to any extent or degree.

The physical characteristics of a person, including generic clothing descriptions, are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person.

3. Anonymous tips

An anonymous tip must be detailed enough, with supporting facts and circumstances that demonstrate its reliability, to support the justification for a search. Some information that should be gathered from an anonymous tip includes:

- Description of the incident or crime as thoroughly as possible, and how the tipster knows this information.
- Time and date of the incident, if known. If unsure, an estimate of the time and date of the incident.
- Location of the incident, if known, including specific addresses, landmarks, or descriptions of the area.
- Descriptions of the people involved in the incident, including their physical appearance, clothing, vehicles, and names if known.
- Any additional information that could be relevant, such as if any photos, videos, etc. are available.

C. Gender of Person Conducting Search

1. The gender of the member conducting the search should be the same as the gender of the person being search.
2. If a member of the same gender is not available, the member conducting the search must use the back of their hand for the search.
3. If the person is transgender, gender queer, or gender non-conforming (P&P 5-604) members shall ask the person's preference for the member's gender, which will be honored whenever possible.

D. False Information

Members shall not use or rely on information known to be materially false or incorrect to justify any type of search.

E. Results from Impermissible Search

Items or contraband recovered from a search that was not permissible under this policy shall not be used as justification for the search.

F. Discoveries During an Exigent Circumstances Search

Discoveries made during a warrantless search under exigent circumstances may be used to establish PC for a warrant (see section [IV-H] below regarding exigent circumstances).

G. Body Worn Cameras (BWCs)

BWC activation is required for searches, in accordance with P&P 4-223.

H. Property Condition

1. Members shall conduct searches with due regard and respect for private property interests and in a manner that minimizes damage.
2. Members shall leave property as close as reasonably possible to its pre-search condition.

I. Cell Phones and Similar Devices

1. Community members' recording devices being used to record police, and the data on the devices, shall be handled in accordance with P&P 9-109.
2. Members shall not search digital information on a detained person's cell phone or other similar device without a warrant subject to the narrow exception below:

Where members reasonably believe that there is evidence captured on a cell phone or similar device that is essential for determining whether to arrest a person, then the member can ask to see that particular evidence. This does not give members, as a matter of course, authority or permission to ask to see unrelated communications or pictures or videos from a detained person's cell phone device.

3. If members find abandoned cell phones or other electronic devices, they may search them for the sole purpose of identifying the owner of the property. The search must cease upon identifying the owner of the property. If the member views evidence of a crime on a device, they must cease the search and secure a warrant to search the device.

IV. Exceptions to Warrant Requirements

Searches of people, vehicles, and buildings may be conducted without a warrant only in a limited set of circumstances. The exceptions to the warrant requirement are described below.

- [A] Search incident to arrest
- [B] Custodial searches
- [C] Vehicle inventory search
- [D] Plain view
- [E] Consent search, except during pedestrian or vehicle stops
- [F] Probable cause search of a vehicle

[G] Weapons pat-down during an investigatory detention

[H] Exigent circumstances

1. Medical emergency and lifesaving
2. Destruction or removal of evidence, excluding narcotics
3. Hot pursuit
4. Implied consent screening and breath test

A. Search Incident to Arrest

1. General information

- a. A member shall only conduct a warrantless search incident to arrest, which includes a search of the person being arrested and the area in their immediate control, when both of the following factors are present:
 - Members have PC and authority to make an arrest for a bookable offense.
 - Members have the intent to book the person.
- i. Booking arrests as described above grant the automatic authority to conduct a search incident to arrest of the detained person, garments, belongings, and the area within their immediate control.
- b. Members shall not escalate an interaction from a citation to a bookable arrest solely to conduct a search without probable cause of an additional arrestable offense.
- c. If a member intends to issue a criminal citation (in lieu of booking) to a person and then allow the person to depart the location after receiving the citation, there is no corresponding authority to conduct a search incident to arrest.

2. Removal from area of control

If an arrested person has been removed from the area and is rendered incapable of gaining immediate control of items in that area, a warrantless search incident to arrest may no longer be conducted of that area.

3. Searching the person incident to arrest

A search incident to arrest consists of a weapons pat-down (in accordance with P&P 9-106) and a search of the person's pockets. The search may include any articles of property found on the person, and the minor manipulation of clothing that does not expose a person's groin or genital area, buttocks, breasts, or more than the waistband or upper portions of the undergarments.

4. Vehicles

If a person arrested for an applicable offense is a passenger or was recently a passenger of a vehicle, a limited search of the passenger compartment of the vehicle (including glove box, center console or containers therein) may be conducted, if one of the following conditions applies:

- The arrested person is unsecured and within reaching distance of the passenger compartment at the time of the search.
- There is probable cause that a search of the passenger compartment will uncover evidence related to the crime for which the passenger was arrested.

5. Residences

- a. When a person is arrested in a residence for an applicable offense, members may search only the immediate area where the arrest occurred.
- b. Members may search other areas of the residence only if one of the following conditions applies:
 - They reasonably believe that member safety is threatened.
 - They reasonably believe that another person's health or safety is at risk (such as a drug overdose).
 - They reasonably believe the arrested person might escape or destroy evidence.

6. Personal items

Members may search personal items such as wallets, backpacks, or other bags under the search incident to arrest exception only if the arrested person had them in their actual and exclusive possession at or immediately preceding the time of the arrest.

B. Custodial Searches

1. When an arrested person is transported in a police vehicle, members shall ensure that the person is searched by both the arresting member and the transporting member before being placed in the police transport vehicle.
2. If the arresting member and the transporting member are different, the person shall be searched prior to transport by the transporting member.
3. The transporting member shall ensure the transport vehicle is inspected for any property left inside prior to placing the arrested person in the vehicle and again after the person is removed from the vehicle.
 - a. If any evidence is found in the vehicle, the transporting member shall ensure it is documented in a Police Report and inventoried in accordance with P&P 10-400.

C. Inventory Search**1. Administrative nature**

- a. An inventory search is not a search incident to arrest. It is administrative in nature and is conducted to:
 - Protect and account for the property of an arrested person or property in an impounded vehicle.
 - Protect the member and MPD from false claims.
 - Secure any dangerous items from MPD or jail facilities.
- b. Inventory searches are not a substitute for obtaining a search warrant or consent.

2. Temporal proximity

Inventory searches of personal property or vehicles must occur as close in time as practical to placing an arrestee in a secure facility or impoundment of the vehicle.

3. When inventory searches are required

- a. All personal property that accompanies a person who is booked shall be held for safekeeping in a secure police facility, except in the following cases:
 - i. Vehicles that are locked shall be treated as a sealed unit and shall not have an inventory search done.
 - ii. Inventory searches shall not be done for items or vehicles that will be placed on evidentiary hold and must remain untouched pending a search warrant.
- b. Members conducting an inventory search shall document in the Narrative text within the Police Report whether or not they found items during the search, and shall document items that are found.

D. Plain View

1. The plain view search exception applies when a member, who has the right to be in a position to see items in plain view, inadvertently discovers contraband or evidence after making a lawful intrusion into a constitutionally protected area such as a residence or a vehicle, and has PC to believe the items are contraband. In such cases, the items are subject to seizure without a warrant.
2. The member must have PC to believe that the items in plain view are contraband or evidence, and they must be immediately recognizable as such.

3. Once the inadvertent discovery is made, members may have PC to seek a warrant for a more thorough search.
4. If members are lawfully inside a residence and see something that is immediately recognizable as evidence or contraband, they shall document in the Police Report what they discovered, and how they were lawfully in the residence.

E. Consent Searches

1. Consent searches prohibited for investigative detentions and vehicle stops

Members shall not search a person or a vehicle based on consent, when the person is detained during an investigative detention or traffic stop. Members may only search a person or a vehicle during an investigative detention or traffic stop if there is a basis for the search other than consent, in accordance with P&P 9-105.

2. Consent searches of buildings and yards

- a. Members may only conduct a consent search of a building, yard, or similar area.
- b. RAS is not required when conducting a consent search of a building, yard or similar area.
- c. When conducting a consent search of a building, yard or similar area, members may not request consent to search a person within the area.

3. Authority over property

- a. Consent can only be given by a person who the member can demonstrate or reasonably articulate has the authority to give consent to search the property.
- b. Where two or more people have equal apparent authority over the property, consent is only valid if all of the following apply:
 - i. The person giving consent has equal authority over the property.
 - ii. The member can conclude that any absent people assumed the risk that the cohabitant (roommate) might permit a search.
 - iii. The member contacted a supervisor prior to proceeding to obtain confirmation of the validity of the consent.
 - iv. All people present with equal apparent authority agree about the permission to search.
 - aa. A consent search shall not be conducted if the people with equal apparent authority are present and disagree about the permission to search.

- ab. All cohabitants (roommates), hotel room guests, or business partners who are present must affirmatively provide their consent to search the property prior to the search. Consent to search is not allowed if one cohabitant or business partner objects to the consent, even if another person gives permission.
- ac. If a minor child living with a parent or guardian pays rent or a similar circumstance applies and they have exclusive control over an area such as their room, a closet, etc., the above limitation could apply when the parent gives permission to search but their minor child refuses permission to search areas of the home that are in the exclusive control of the child.
- c. Landlords cannot give consent to search if a lease or rental agreement is still valid.
- d. If a member has questions or needs additional clarification, they should contact a supervisor for guidance.

4. Scope of consent

- a. When requesting consent the scope of the search must be established, and may be limited in any way the person wishes.
- b. Searches may not exceed the authorized scope unless justified by another search warrant exception.

5. Refusals to consent

- a. The member requesting consent shall affirmatively explain that the person has a right to refuse, limit, or revoke consent at any time and that the person will not be punished or detained longer if they refuse.
- b. Members shall not use a person's refusal to give consent to search as a factor in establishing RAS or PC.
- c. Members shall not tell a person that refusal to provide consent may lead to adverse consequences, such as arrest or seizure of their property.

6. Revoking consent

- a. The person providing consent may stop the search at any point and must be able to communicate their request to stop the search.
- b. If the consent search has begun, but the person then decides to revoke their consent:
 - i. The member shall immediately cease the search unless another exception to the search warrant requirement applies.

- ii. The member shall not use threats or other forms of coercion to obtain or induce the person not to revoke consent.
- iii. The member may retain custody of evidence lawfully seized prior to revocation of consent, even if the person requests the return of the items.

7. Recording consent

- a. Members shall record themselves with their BWC or through another approved MPD audio or video recording method, providing the person with an explanation of their rights, which must include the right to refuse, limit or revoke consent, and shall also record the person giving consent.
- b. The member shall document the person's verbal consent or refusal in the Police Report as detailed in [IV-E-8] below.
- c. Supervisory review is required for all searches, including consent searches, in accordance with P&P 9-113. A supervisor shall review BWC as necessary to make a proper assessment regarding compliance with MPD policy.

8. Documentation for consent searches

Members shall document the following in the Police Report:

- a. The circumstances giving rise to RAS for a consent search.
- b. Whether or not the person consented to the search.
- c. If the search was conducted:
 - A step-by-step description of how the search was carried out.
 - Whether or not anything was seized during the search.
 - The location of any evidence that was discovered, and the name of the member who found and seized the evidence.
 - If the search resulted in an arrest, and the reason the arrest was made.

F. Probable Cause Searches of Vehicles

- 1. If a member has PC to believe that a vehicle contains evidence of a crime or contraband, the member may conduct a warrantless search anywhere in the vehicle, including containers and the trunk, where the evidence or contraband sought may reasonably be found.
 - a. The scope can include applicable locked or unlocked containers within the vehicle regardless of the ownership of those containers. Members searching locked containers shall use a key when available, or open the container in a manner that minimizes the damage to the extent possible.

2. Prior to conducting a PC search that will likely cause damage to a vehicle, members are encouraged to secure a warrant, when appropriate.
3. Members shall not conduct a warrantless PC search of a vehicle located in a driveway or within the curtilage of a home (area immediately surrounding a home).

G. Weapons Pat-Downs

See P&P 9-106 for requirements regarding weapons pat-downs.

H. Exigent Circumstances

Warrants are generally required to search a person or a person's home or belongings unless an exception to the warrant requirements exists. Exigent circumstances are one such exception. Exigent circumstances apply when the circumstances of the situation make the needs of law enforcement so compelling that the warrantless search is objectively reasonable. Such emergency conditions exist in a few situations but include those listed below.

A warrantless search conducted due to exigent circumstances is valid only as long as the exigent circumstances last. When the exigency has ended, any further search must be pursuant to a warrant or justified by another exception to the warrant requirement.

1. Medical emergency and lifesaving

The need to protect or preserve life or avoid serious injury may justify a search or an entry into a residence or non-public building where there is a reasonable expectation of privacy that would otherwise be illegal absent an emergency.

It is important to remember that while a search or entry may be justified under the emergency doctrine, a warrant will generally need to be obtained prior to further investigation or seizure of evidence.

a. Justification for search

- i. Members may conduct a warrantless search for a medical emergency or life-saving purposes when all of the following apply:
 - The member has a reasonable, objective belief that there is an immediate need to protect the lives or safety of themselves or the public, or a specific person needs immediate help.
 - The member has a reasonable basis to associate the emergency with the place to be searched.
 - A reasonable person in the same situation would similarly believe that there is a need for immediate assistance.

- ii. The search must be conducted absent a motivation or desire to discover evidence or make an arrest.
- iii. Members shall not conduct the search as a pretext for an investigatory search.

b. Unconscious person

Suspected unconsciousness alone does not support a reasonable, objective belief of a need for immediate assistance.

- i. Members shall analyze the totality of the circumstances before proceeding with a search. If a person appears to be unconscious, members must take reasonable steps to assess the situation in accordance with P&P 7-801 Critical Decision Making and should not immediately begin to search the person's belongings.
- ii. Members should confirm the person's unconsciousness and render aid if necessary (see P&P 7-350 Emergency Medical Response).
- iii. Members shall attempt to rouse a suspected unconscious person prior to conducting a search under the medical emergency or lifesaving exception.

For example, if members respond to a call of an unconscious person, the person was not responsive to members when they attempted to rouse the person, the person had labored breathing, and a bystander said that they thought the person had been stung by a bee prior to passing out, then the member could articulate that they believed the person could be experiencing a life-threatening allergic reaction to the bee sting and might have an epi pen in their pockets or belongings.

c. Ending the search

Members shall cease the search immediately upon the emergency ending or otherwise dispelling the reason for the non-criminal investigation.

2. Destruction or removal of evidence

When members have a reasonable belief that evidence of a felony is about to be removed or destroyed, excluding narcotics, they may make a warrantless entry into a residence or non-public building to secure the premises and freeze the scene until a warrant is obtained.

- a. Except in exceptional circumstances, such as danger to members or the public, members shall not seize evidence or contraband during this initial entry. Instead, they shall secure the premises and await the arrival of a search warrant.

3. Fresh pursuit

- a. Members may enter a residence or non-public building if they are in “hot,” or “fresh,” pursuit of a fleeing person for a suspected felony.

In accordance with MN Statute section 626.69:

- i. A fresh pursuit includes the pursuit of a person when one of the following applies:
- The person has committed a felony.
 - The person is reasonably suspected of having committed a felony.
 - The person is suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed.
- ii. Fresh pursuit shall not necessarily imply instant pursuit but means pursuit without unreasonable delay.
- b. Factors to consider in making an entry include:
- Whether the crime involved is a felony.
 - Whether there is an objectively reasonable basis to believe the fleeing person is armed.
 - Whether there is an objectively reasonable basis to believe the fleeing person committed the crime.
 - Whether there is an objectively reasonable basis to believe the fleeing person is on the premises.
 - Whether there is an objectively reasonable basis to believe that the fleeing person is likely to escape if not swiftly apprehended.
 - Whether police identified themselves and gave the fleeing person a chance to surrender prior to entry.
 - The manner in which the fleeing person entered.
- c. Members shall not make a warrantless fresh pursuit entry when there is only PC of a misdemeanor or a minor offense. Examples of misdemeanors could include DUI, traffic offenses, curfew violations, citation offenses, and non-arrestable violations.

4. Implied consent screening and breath test

Any person who drives, operates, or is in physical control of a motor vehicle within Minnesota consents, subject to the provisions of MN Statute sections 169A.50 to 169A.53 (implied consent law) and section 169A.20 (driving while impaired), to a chemical test for the purpose of determining the presence of alcohol, a controlled substance or its metabolite, or an intoxicating substance. (MN Statute section 169A.51 Subd. 1)

a. Preliminary screening test

When a member has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated MN statute section 169A.20 (driving while impaired), MN Statute section 169A.31 (alcohol-related school bus or Head Start bus driving), or MN Statute section 169A.33 (underage drinking and driving), the member may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device (PBT) approved by the commissioner for this purpose. (MN Statute section 169A.41 Subd. 1)

b. Chemical breath test

A chemical breath test may be required of a person when a member has PC to believe the person was driving, operating, or in physical control of a motor vehicle, while impaired (MN Statute section 169A.20), and one of the conditions specified in MN Statute section 169A.51 Subd. 1(b) exists.

Testing shall be completed in accordance with P&P 7-605.

V. Submitting Reports for Searches**A. Procedures for Submitting Reports for Searches**

1. Members conducting warrantless searches shall notify an on-duty supervisor of any pending reports before the end of their shift and are encouraged to alert the supervisor as soon as the report is completed.
2. The report shall be reviewed for approval by an on-duty supervisor.
3. Before the member is relieved from their shift, they shall ensure that the report is approved, including any necessary revisions.
4. Reports shall contain the following elements:
 - a. The type of searches conducted and whether each of those searches were discretionary or non-discretionary pursuant to MPD policy and procedure.
 - b. A detailed description of the circumstances that led to the search, including the facts that justified the search warrant exception, and the facts that established PC for the search (when applicable).
 - i. For searches based on exigent circumstances regarding destruction of evidence, this includes an explanation of the reasons why obtaining a search warrant was impractical, and why the circumstances could not have been anticipated.

- c. The outcome of the search, including whether or not anything was found, and a complete description of anything that was found including whether those items were unlawful.
5. Members are prohibited from only using boilerplate language when describing the basis for a search. Members shall use specific and descriptive language individualized to the person searched and the circumstances of the search to describe the basis of the search. The amount of detail required depends on the complexity of the encounter.
6. If damage to property occurs while the member conducts a search (such as to a building or vehicle), the member shall:
 - a. Notify a supervisor.
 - b. Photograph the damages.
 - c. Include the code FENTRY in the Police Report if entry for a search is made forcibly to windows or interior or exterior doors.

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.

Arrested Person: A person that has been taken into custody, and the restraint and duration are greater than an investigatory stop or detention. This includes people who are arrested and released at the scene, and those who are booked.

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.

Booking: An arrest and transport of a person to a booking (detention) facility such as Hennepin County Jail (HCJ).

Bookable Offense: An offense that meets the criteria for booking into a detention facility. For adults this includes gross misdemeanors, felonies, designated misdemeanors, and non-payable offenses when a Rule 6 exception applies (P&P 9-202). For minors this includes offenses on the facility’s admission criteria list and situations with an offense-level override (P&P 8-304).

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.

Mere Speculation: A hunch, opinion, or gut feeling formed without concrete evidence or specific facts. Mere speculation does not provide a legal basis for investigative detentions, weapons pat-downs, searches, or arrests.

Plain View Search: Lawful observation of evidence, contraband, or illegal activity without conducting a physical search. The member must be lawfully present in the location where the item is observed, the item must be immediately recognizable as evidence of a crime or contraband without further inspection, and the member cannot move or open anything to get view of the evidence. See P&P 9-110 for more information regarding plain view searches.

Probable Cause (PC): Where an objective assessment of the articulable facts and circumstances, taken as a whole and known to the member at the time, would lead a reasonable member to believe the following:

- To effectuate an arrest or issue a citation: That a particular person has committed or is committing a specific crime or a traffic violation.
- To search: That evidence of a specific crime, contraband, or a person subject to arrest is located in a particular place.

Probable cause (PC) requires stronger evidence and greater certainty than reasonable articulable suspicion, and cannot be based on mere speculation or a simple assertion of criminal activity.

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.

Vehicle Stop: The involuntary detention of a vehicle and the driver or the occupants of the vehicle.

Vehicle Stop- Criminal Investigation: Stopping a vehicle based on reasonable articulable suspicion (RAS) that the driver or occupants are committing, are about to commit, or have committed a crime. This is a type of investigative detention.

Vehicle Stop- Traffic Violation: Stopping a vehicle for a traffic violation which the member has probable cause to believe occurred.

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.