

# Stop and Frisk Training

## Vampire Squad Training Bulletin

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# General Information

- **Stop and Frisk Law- 901.151**
- When a LEO encounters a person under circumstances which reasonably indicate the person has committed, is committing, or is about to commit a violation of the criminal laws of this state.
- The officer may temporarily detain the person to check their identity and the circumstances surrounding the person's presence.

# General Information

- No person shall be detained any longer than is reasonably necessary to understand the situation.
- The detention shall not extend beyond the place where it was first affected or in the immediate vicinity.

# Case Law and Facts

- This statute authorized the temporary detention when circumstances reasonably indicate that a person is violating the criminal laws. *Winters v. State*
- A police officer has the authority to temporarily detain a person under FSS 901.151 in order to investigate a reported misdemeanor which occurred outside of the officer's presence. *State v. Wise*

# Case Law and Facts

- An officer needs a reasonable and articulated suspicion to conduct a stop and frisk under FSS 901.151. What is a reasonable and articulated suspicion depends on the facts and circumstances of each case. *Watts v. State*

# Stop and Frisk and Probable Cause

- **In general**
- Officer can frisk an individual when the officer has a reasonable suspicion he/she is in danger of physical injury.
- The frisk is a pat-down of outer clothing for weapons. IT IS NOT A SEARCH.
- The officer can pat-down a bag or container if the officer has a right to frisk the subject.
- Once the frisk is completed and the officer's fears are abated, the officer cannot continue to search the subject.

# Stop and Frisk and Probable Cause

- **In general cont'd**
- There is no automatic right to frisk during an investigatory stop. The officer has to believe and be able to articulate reasons to think the subject has a weapon.

# Stop and Frisk and Probable Cause

## ■ **Violent Crimes**

- An exception to automatic pat-down rule is if the subject is involved/suspect in a violent crime.

# Stop and Frisk and Probable Cause

- **A “bulge” seen on suspect**
- Cannot frisk only because of an unknown bulge on the subject.
- If officer cannot identify a weapon and the bulge is in the waist area, a frisk can be completed if this information is coupled with some other indication of criminal activity.
- If the bulge is in another area, an officer can conduct a frisk only if he/she is responding to a violent crime.

# Stop and Frisk and Probable Cause

- **Presence at the scene of a crime**
- Cannot frisk just because at the scene of a crime.
- Cannot frisk just because of a traffic violation.

# Stop and Frisk and Probable Cause

## ■ Furtive Movements

- Furtive movements may be sufficient to establish reasonable suspicion justifying a pat-down search for weapons.
- What are furtive movements?
- Example:
- Legal Traffic stop and the passenger was “jumping around”, he ducked down, possibly reaching underneath the seat to place or retrieve something under the seat.

# Stop and Frisk and Probable Cause

- **Use of handcuffs**
- Florida Supreme Court has ruled that handcuffing a person during a stop and frisk is reasonable when circumstances are justified.
- Example:
  - Officer safety or keeping subject from fleeing.
  - The continued use of handcuffs after pat-down is illegal.

# Issues and Concerns

## ■ Investigative Stops

- Must be a well founded suspicion that criminal activity is afoot.
- Hunch alone is not enough for an investigatory search.
- The law enforcement officer must be able to articulate reasons for his suspicion.

# Issues and Concerns

- **Pat-down for weapons**
- A police officer can conduct a weapons search if there is probable cause to believe the subject is armed.

# Issues and Concerns

## ■ Questioning

- All citizens should expect reasonable contact with police.
- LEO's have the right to initiate questioning in a public place.
- Police can even request a citizen to consent to a search of his person or belongings.
- If the contact is consensual then it is not deemed a seizure under the 4th amendment.

# Issues and Concerns

- **Illegal Search and Seizure**
- Consent to search, given after illegal police conduct, is presumptively tainted and deemed involuntary.

# Issues and Concerns

## ■ Seizure/Arrest

- A seizure occurs only when by means of physical force or show of authority.
- One's freedom of movement has been restrained
- And when in light of all the circumstances
- It may be said that a reasonable person would have believed that he or she was not free to leave.

# Issues and Concerns

- **Identification Requirement**
- When a person is stopped based on reasonable suspicion
- The person must identify themselves.
- If the person refuses to give their name
- They can be arrested.

Questions??