

Alert Publishing Inc.

**69 Denise Dr.
Burlington NC 27215
www.alert45.com
619-578-2459
Fax 314-754-9964**

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Searches of Persons I: Tactical Pat Downs and Frisk Searches

Series IV Video 11

Overview
Training Guide
Test Questions and Answers

OBJECTIVES

BLOCK: _____

INSTRUCTOR: _____ **TIME ALLOCATED:** _____

DATE PREPARED: _____ **PREPARED BY:** ALERT

SYNOPSIS: Through lecture, class discussion, the showing of the **ALERT** instructional video field training sessions, and the administration of the accompanying test, the training officer or instructor will be able to offer this course in **Searches of Persons I: Tactical Pat Downs and Frisk Searches.**

OBJECTIVES:

- 1. to know when and if a frisk is permitted;**
- 2. to know how to safely approach person and request a frisk search;**
- 3. to learn how to safely pat down or frisk a suspect in the field, using a vehicle; and using a wall;**
- 4. to know alternate methods of safely searching persons in field;**
- 5. to maximize law enforcement effectiveness and to minimize exposure to legal and liability risks.**

**Searches of Persons I: Tactical Pat Downs and Frisk Searches
Series IV Video 11
Overview and Training Guide**

INTRODUCTION

NOTES

I. Citizen Contacts

A. Communication

1. be professional (use "Sir," "Ma'am," "Miss")
2. avoid profanity and derogatory statements
3. low tone voice and actions will usually make suspect be less suspicious and less threatened
4. verbal communication skill usage is as important as Defensive Tactics

B. Look for Signs during Citizen Contact that Suspect Might be Thinking About Escaping or Attacking You

1. extreme nervousness
2. backing up from your approach
3. not listening to your verbal commands
4. sweating
5. looking around for escape
6. freezing up
7. repeating words or phrases over and over
8. long distance stare or looking through you
9. invading your personal and professional space
10. excessive use of profanity

II. Three Kinds of Officer and Citizen Contacts:

A. Voluntary Contact

1. an officer-citizen contact in which the officer's words and/or actions would cause a reasonable (innocent) person to believe that he is *free to refuse* to participate in the contact.
2. **keys:**
 - a. no force
 - b. no "show of authority"
3. "show of authority": words or action by police that would cause a reasonable (innocent) person to feel that he *was required* to participate in the contact
4. **Note:** in a voluntary contact, **Miranda is not applicable** because the contact is "**non-custodial**"
5. use words of invitation, request, solicitation, and cooperation:
 - a. "May I . . ."
 - b. "Would you be willing . . ."
 - c. "Is that okay with you . . . ?"
6. Avoid words of command, demand, requirement, and instruction.

EXAMPLE
OFFICER: Hello,
Ms., I'm Officer
Baker from the
Owensville Police
Department.
May I ask you a few
questions about a
case I'm working on?

WOMAN: Sure.

7. document everything said to suspect
 - a. in reports
 - b. recorded on micro-cassette, where state allows
 - c. car video cam with audio
8. be prepared to articulate details of conversation in court

B. The Investigative (Terry) Stop

1. A **limited seizure** of a person based upon **reasonable suspicion** that the person is, has been, or is about to be engaged in criminal activity
2. an officer must have at least "**reasonable suspicion**" prior to executing the investigative stop

a. Reasonable Suspicion:

facts and circumstances which, taken together with reasonable inferences in light of an officer's training and experience and measured in terms of common sense, would cause an officer to suspect that. . .

(1) **(to stop)** a person has been, is, or is about to be involved in criminal activity; or

(2) **(to frisk)** a person has a quickly accessible weapon that could be a threat to the officer.

(Note: a "**frisk**" is a limited, usually a "**pat down**," protective search of outer clothing and quickly accessible carried belongings for weapons.)

- b. officers must be able to articulate persuasive reasons for their suspicions

3. **Note: Miranda rule is generally not applicable** because the investigative (Terry) stop is "**non-custodial**" within the meaning of Miranda.
4. a "Terry Stop" is generally a brief, one location field contact ("brief"--normally a function of minutes, not hours).
5. force may be used if reasonable necessary to effect and safely maintain the stop.
6. for years, in lower court decisions, the use of reasonable force in investigative stops has been approved up to and including stops conducted at gunpoint.
7. even the show of **deadly force**, then, does not necessarily convert a detention into an arrest
8. handcuffing and/or placing the suspect in a police car may be appropriate actions in some investigative detentions where necessary to assure officer safety, or the security of the detainee.
9. if officers use force and/or restraints, they should **be prepared to articulate compelling justification** for such actions as part of the Terry Stop so that the contact is not judged to be an arrest (requiring **probable cause**).

NOTES
Berkemer v. McCarty
 104 S. Ct. 3138
 (1984)

Terry v. Ohio
 the original
 "stop and frisk"
 the Court approved
 a seizure of a person
 on less than
probable cause
 where the police
 officer ". . . grabbed
 petitioner Terry,
spun him around..."
 before proceeding
 with the frisk.
 [*Terry v. Ohio*],
 88 S. Ct. 1868
 (1968). at 1872.]

[*U.S. v. Seni*],
 662 F.2d. 277
 (4th Cir. 1981)

[*U.S. v. Harley*],
 682 F.2d 39
 (2nd Cir. 1982)

C Arrests

1. Any seizure of a person which goes beyond the limits of an investigative (terry) stop is an arrest.
2. An arrest requires **probable cause** to believe that the the subject has committed a crime.
 - a. **probable cause:** facts and circumstances which, taken together with reasonable inferences in light of an officer's training and experience and measured in terms of common sense, would establish *a fair probability* that ...
 - 1) (to arrest) a crime has been committed and that a particular person committed it; or
 - 2). (to search) evidence of a crime or contraband is in a particular place.
 - b. **an involuntary encounter** which does not meet the requirements of lawful investigative stop is an arrest which requires **probable cause**.
3. an arrest occurs when . . .
 - a. a **reasonable person** would **not** feel free to leave., and
 - b. this condition persists for more than the time limits for an investigative stop, or
 - c. there is **involuntary movement of the subject** a significant distance (or even a short distance, if unexplained in terms of safety and security requirements), or
 - d. officers use force and/or restraints in excess of the amount reasonably required for an investigative stop.

EXAMPLE

"Picking up" a person for questioning and transporting him involuntarily is an arrest and is an unlawful seizure, unless probable cause is present. [*Dunaway v. N.Y.*], 99 S. Ct. 2248 (1979)

III. Tactical Considerations

A. REMEMBER **reactionary gap** - a distance approximate six (6) to ten (10) feet between an officer and a subject

1. gives officer time to react to an attack of the subject on the officer
2. since subject can be on top of you in less than a second from that distance:

OFFICER
must control
the distance
during contact

B. **Call backup** to assist patdown/search

1. if more than one person in car
2. night time, poor visibility
3. if officer feels threatened

C. If Search Incident to Arrest

1. handcuff first, then search
2. handcuff others (in car) for safety and put in your vehicle until patdown/search is over

D. Patdown and Frisk Search

1. always execute from back of person
2. tell person to put hands on head and intertwine and reassure person that this patdown is for your safety
3. tell person to spread legs apart
4. move in slowly, telling person "Don't move"
5. clasp person's intertwined hands with your hand
6. step between person's legs with your corresponding leg (if using left hand to control person's hands, step in with left leg)
7. pull back slightly on intertwined hands to put person off-balance
8. divide the person's body in half and begin patdown
9. begin with hair and hairline
10. check behind ears and look inside
11. rub hands over collar of shirt or coat
12. rub hand over chest area
13. check under arms and around shirt sleeves
14. patdown along waist and belt buckle area
15. check front pockets
16. patdown groin area
17. check along belt and top of pants area, rolling belt slightly out

NOTE:
Use back of hand
when touching
private areas

NOTES

18. check lower back
19. pat down buttocks area and inside thighs

NOTE:
**Use back of
hand when
touching private
areas**

20. check legs, knees, and ankles
21. look into shoes and socks
22. stand up, switch hands and legs
23. repeat process on other half of body
24. once finished tell person to not to move
and thank person for his cooperation
25. move back slowly
26. begin Field Interview prepared and ready

E. Safe Street Stop Tactics

1. never begin Field Interview while seated in a vehicle
2. upon leaving vehicle, officer should approach suspect
from either the front or rear of vehicle--rear is safer
3. play low key to control Field Interview
4. use vehicle to create Reactionary Gap
5. get identification from suspect
6. let suspect think he or she is a witness to crime
7. pat down or frisk suspect for weapons

NOTES

- a. reassure for your safety
 - b. control by putting suspect off-balance
8. slow interview down and use to your advantage
- a. time
 - b. distance
9. use proper eye contact to convey the following:
- a. concern
 - b. support
 - c. confidence
 - d. authority
10. always try to begin Field Interview at the lowest possible level of the Force Continuum

CONCLUSIONS

What you have learned:

ALERT has provided information in a training guide and video for **Searches of Persons I: Tactical Pat Downs and Frisk Searches.**

We have defined in detail the objectives, lesson plans, evaluations, records, attendance policies, and documentation, and the importance of each of these. Your packet should contain examples of each.

These materials should not supersede departmental policy, and ALERT is not, under any circumstances, dictating that policy.

Instructors, trainers, and law enforcement personnel must consult their own department legal counsel on specifics of the law in their area.

You have permission to make copies of the written material for your training courses only.

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Test Questions

1. The first priority of a frisk or a search incident to arrest would be
 - A. looking for contraband
 - B. demeaning person being searched
 - C. officer safety
 - D. getting it over as quickly as possible

2. If you have a Search Incident to Arrest, it is okay to search the driver outside of vehicle while the passenger stands by watching.

True False

3. A Terry Stop is a _____ seizure of a person based upon _____ that the person is, has been, or is about to be engaged in criminal activity.

4. When an officer is involved in a citizen contact, the officer should
 - a. avoid derogatory remarks
 - b. avoid profanity
 - c. be professional
 - d. all of the above
 - e. none of the above

5. In a Voluntary Contact, _____ is not applicable because the contact is "non-custodial."

6. A frisk is a limited, usually a "pat down," protective search of outer clothing and quickly accessible belongings for weapons

True False

7. In a Search Incident to Arrest, _____ first and then search..

8. The reactionary gap is what approximate distance between an officer and a subject during a citizen/officer contact.

- a. twenty-five feet
- b. six to ten feet
- c. ten to twenty feet
- d. seventeen feet

9. Many persons will hide their weapons in the groin area because they know officers are reluctant and embarrassed to search in that private area.

True

False

10. When searching a person's private area (groin, buttocks, female breasts), use the _____ of the hand and do not grope, telling the person and others in the area what you are doing.

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Test Answers

1. c. officer safety
 2. False, search one person at a time; if you have to, handcuff passenger and place in your vehicle for your safety, and let person know what you are doing
 3. limited, reasonable suspicion
 - 4 d. all of the above
 5. Miranda
 6. True
 7. handcuff
 8. b. six to ten feet
 9. True
 10. back
-

Alert Publishing Inc.
69 Denise Drive
Burlington NC 27215

Phone 619-578-2459
Fax 314-154-9964
mikeg@alert45.com

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