

Newark Police Division
Consensual Contacts and Investigatory Stops Draft Policy
What You Need to Know

Background

Newark Police Division officers come into contact with Newark residents on a daily basis. These interactions consist of both informal, consensual contacts and investigatory stops. This white paper outlines the requirements and parameters of both consensual contacts and investigatory stops.

Section VI of the Consent Decree outlines the requirements of this consensual contacts and investigatory stops policy.

Consensual Contacts and Investigatory Stops Draft Policy Summary

The current draft stops policy contains the following eleven sections: (1) purpose; (2) policy; (3) definitions; (4) prohibited actions; (5) procedures; (6) reporting requirements; (7) supervisor responsibilities; (8) administrative review; (9) training; (10) responsibility for compliance; and (11) effect of this order.

WHAT IS THE PURPOSE OF THIS POLICY?¹

The policy seeks to “ensure all officers of the Newark Police Division engage in best practices when interacting with people in the community at all times. All officers are guided by this order when they either informally come into contact with people in the community as part of a consensual contact or part of an investigatory stop.”

WHAT PROCEDURES MUST AN OFFICER FOLLOW DURING A CONSENSUAL CONTACT?²

The policy defines a consensual contact as a voluntary and consensual conversation between a person and the police that can be used to gather information about crime or quality of life issues.

A consensual contact occurs when an officer comes into contact, either by chance or after responding to a specific call for service, with a person within the community who is not under suspicion of committing a crime and is free to leave at any point.

During a consensual contact, the officer has the duty of ensuring that their actions and words are delivered in a way that would make a person feel that they were free to leave at any time. If an officer perceives that a person’s action indicates an attempt to avoid police interaction (e.g., remaining silent, refusing to stop, not providing identification, etc.), the officer cannot use this behavior, by itself, to justify transforming a consensual contact into an investigatory stop or detention.

During any type of voluntary contact with police, a person may lawfully refuse to speak to officers, refuse to identify themselves, or otherwise not cooperate without consequence.

¹ See NPD General Order (“Consensual Contacts and Investigatory Stops”) at I.

² See Consensual Contacts and Investigatory Stops at V.

WHAT PROCEDURES MUST AN OFFICER FOLLOW DURING AN INVESTIGATORY STOP?³

The policy defines an investigatory stop as the seizure of a person for investigative purposes.

An investigatory stop must be supported by reasonable and articulable suspicion that a person is about to commit a crime, is in the middle of committing a crime, or has just committed a crime. The stop should only last for the amount of time that it would take the officer to dispel the suspicion or to allow the suspicion to rise to the level of probable cause for an arrest. The officer in some circumstances is also permitted to do a limited protective “frisk” search of the person for weapons without a warrant (called a “Terry frisk”).⁴

The stopping of people based solely on a demographic category (e.g., age, race, or ethnicity) is illegal and morally wrong. Any officer who engages in this activity is subject to discipline, civil liability, and/or criminal prosecution.

WHAT ARE THE EXPECTATIONS OF OFFICERS DURING AN INVESTIGATORY STOP/DETENTION?⁵

When an officer has reasonable and articulable suspicion that a person is about to violate the law, has violated the law, or is in the process of violating the law, the officer is expected to, among other things:

- Be courteous, respectful, and professional;
- Answer any questions the person may have, including explaining options for traffic summons dispositions, if relevant;
- Provide their name and badge number when requested, in writing or on a business card (if authorized);
- Offer an explanation for the circumstances and reasons for the stop; and
- Fully document all stops as soon as possible, but no later than by the end of the workday.

HOW WILL OFFICERS BE HELD ACCOUNTABLE?⁶

A police officer must document an interaction between a person and the police when the person stopped did not feel free to leave. Information for each person stopped must be entered into NPD’s BlueTeam System and/or other data entry system. All entered investigative stop data information will be reviewed by a supervisor.

The Commander of the Office of Professional Standards (OPS) will conduct cumulative and quarterly analyses of NPD officers’ enforcement activities related to this policy.

NPD officers found to have violated this policy will be subject to disciplinary action (including counseling, mediation, and training) up to and including termination.

WHAT ARE THE TRAINING REQUIREMENTS FOR CONTACTS AND STOPS?⁷

NPD members are required to undergo at least sixteen hours of initial training on stops, searches, and arrests. NPD members will subsequently undergo a minimum of four hours of annual training, to include training on legal requirements, search procedures and handling of seized property and evidence, and the effect of stops, searches, and arrests on community perceptions of police legitimacy and public safety.

³ See Consensual Contacts and Investigatory Stops at II, V.

⁴ *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵ See Consensual Contacts and Investigatory Stops at V.

⁶ See Consensual Contacts and Investigatory Stops at VI, VII, VIII.

⁷ See Consensual Contacts and Investigatory Stops at IX.