

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
STREET CHECKS**

DATE: September 25, 2021

APPROVED

Memo# 2021-028

BACKGROUND

A review of the Duty Manual revealed clarification was needed regarding the use of Street Checks to document consensual encounters and detentions.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 3300 STREET CHECKS: *Revised 09-25-21*

A Street Check (SC) is a ~~very~~ useful and effective means of maintaining the safety and welfare of the community. By remaining alert, perceiving circumstances that may indicate crime, ~~stopping~~ *contacting* suspicious individuals, and conducting Street Checks, officers serve the community by preventing, discovering, ~~or~~ *and* solving crimes. *Street Checks are authorized during consensual encounters, detentions, and arrests.* ~~However, the courts have indicated that certain elements must be present before an officer initiates a field interview. In this regard the Department maintains procedures which detail these elements.~~

Examples of Street Checks are observations of suspicious persons or known criminals, suspicious vehicles, or records of conversations between police officers and any number of different types of subjects (e.g. suspects, witnesses, victims, guardians, etc.). Street Checks, on their own, do not develop probable cause and are not considered an arrest.

L 3301 **STREET CHECKS - DEFINITION:**
Revised 09-25-21

A feature in Versadex that creates a record of a contact between an officer and a person, even if no crime or other police incident has occurred.

~~The Street Check feature in Versadex creates a record even if no crime or other police incident has occurred. A Street Check can be used to document temporary detention of a person for purposes of investigating unusual actions which reasonably imply criminal activity. Street Checks are also used to document detentions. A detention occurs when an officer uses police authority either to compel an individual to stop, to remain in a certain place or to perform some act (such as walking to a nearby location where the officer can use a radio, telephone or call box). If the individual being stopped reasonably believes that he or she is not free to leave the officer's presence, a detention is occurring.~~

~~Examples of Street Checks are observations of suspicious persons or known criminals, suspicious vehicles, or records of conversations between police officers and any number of different types of subjects.~~

L 3302 **STREET CHECKS DURING CONSENSUAL ENCOUNTERS AUTHORITY AND REQUIRED ELEMENTS:**
Revised 09-25-21

An officer may conduct a consensual encounter with anyone, at any time, for any reason. The officer may ask the persons anything, including questions regarding criminal activity and consent to engage in investigative techniques, such as Street Checks. The person is under no legal obligation to participate in a consensual encounter. Absent exigent circumstances, officer safety, or the contact developing into a detention or arrest, the officer may not give orders to a person during a consensual encounter. Street Checks completed during consensual encounters will be entered into Versadex.

~~If an officer has a reasonable suspicion that an individual has committed, is committing or is about to commit any crime, such officer has the authority to stop that individual and conduct a Street Check. The officer may exercise this authority in any place that the officer has a right to be. Both pedestrians and individuals in vehicles may be stopped. The following elements must be present before a Street Check is authorized:~~

- ~~• The officer has reasonable suspicion that some unusual or out of the ordinary activity is or has taken place~~
- ~~• There is some indication that the individual under suspicion is connected to the unusual activity~~
- ~~• There is some suggestion that the unusual activity is related to crime~~
- ~~• All three elements must be present before an individual is stopped and a Street Check is conducted.~~

L3302.5 **STREET CHECKS DURING DETENTIONS:**

Added 09-25-21

If an officer has a reasonable suspicion that an individual has committed, is committing or is about to commit any crime, such officer has the authority to stop that individual and conduct a Street Check or complete a General Offense Report (Form 200-2-AFR). The officer may exercise this authority in any place that the officer has a right to be. Both pedestrians and individuals in vehicles may be stopped based on reasonable suspicion.

L 3303 **REASONABLE SUSPICION:**

Revised 09-25-21

If an officer has reasonable suspicion that an individual has committed, is committing or is about to commit any crime, such officer has the authority to detain that individual for a reasonable period of time to conduct an investigation. The officer may exercise this authority in any place the officer has a right to be. Both pedestrians and individuals in vehicles may be detained pursuant to reasonable suspicion. The following elements must be present before a reasonable suspicion detention is authorized:

- *The officer has reasonable suspicion that some unusual or out of the ordinary activity is or has taken place*
- *There is some indication that the individual under suspicion is connected to the unusual activity*
- *There is some suggestion that the unusual activity is related to crime*
- *All three elements must be present before a reasonable suspicion detention is conducted.*

The term "reasonable suspicion" is not capable of precise definition. It is more than a hunch or mere speculation on the part of the officer but less than the probable cause necessary for an arrest.

Reasonable suspicion may arise out of a contact or it may exist prior to or independently of a contact. Reasonable suspicion may be based on factors such as appearance, actions, prior knowledge, area, time and experience. In addition, officers will strive to utilize factors which can be documented later. Mere hunches or guesses are not adequate.

L 3304 **INITIAL APPROACH:**

Deleted 09-25-21

~~Once the required elements have been established, the person may be stopped. However, provided that the public is not endangered and the chance of losing the suspect is not significant, it may be better for the officer to wait if it is thought that by so doing such officer will be able to develop additional information to establish probable cause for arrest. The guideline is: Don't ruin a good arrest by a premature stop.~~

L 3305 USE OF FORCE TO DETAIN:
Revised 09-25-21

Officers will use only that amount of force reasonable under the circumstances to effect the stop of a person. The means used may be a verbal request, an order, or the use of physical force. However, when using physical force, officers shall consider whether the amount of force needed to effect the detention is reasonable based on the severity of the crime at issue, whether the subject poses an immediate threat to officers or others, and the subject's level of resistance or attempt to evade by flight. ~~under no circumstances may force be used which could cause death or serious bodily harm to the person. If the officer is attacked, or circumstances exist that create probable cause to arrest, the officer may use the amount of force reasonable to defend himself/herself or affect a full custody arrest.~~

L 3306 REFUSAL TO COOPERATE:
Revised 09-25-21

Refusal to answer questions or cooperate in other ways does not, by itself, establish probable cause to arrest. However, such refusal may be considered, along with other facts, as an element which may establish probable ~~reasonable~~ cause if it would be reasonable for an innocent individual to cooperate. An example is as follows:

- An individual fitting the description of a burglary suspect is observed walking down the sidewalk in the vicinity of a recent "channel lock" burglary. The time is 0400 hours. Officers stop and question the individual who then refuses to give a name and address. The officers then discover a pair of "channel lock" pliers on the person. Under these circumstances, the officers may attach some weight to a refusal to answer the routine questions regarding identity and address. In light of all the surrounding circumstances, an arrest for burglary would be proper. Nevertheless, officers cannot compel an individual to cooperate in a Street Check.

L 3307 TREATMENT OF DETAINED INDIVIDUALS:
Revised 09-25-21

An officer will act with as much restraint and courtesy toward individuals being stopped as is possible under the circumstances and will identify ~~themselves~~ ~~himself/herself~~ as a law enforcement officer as soon as practical. During the interview, the officer initiating the stop will advise the stopped individual of the reason and purpose of the Street Check.

L 3308 MOVING THE DETAINED INDIVIDUAL:
Revised 09-25-21

Officers should ~~will~~ not transport or otherwise move a stopped individual from the location where the stop is made except to verify answers given and only when no other method of verification is available. Nevertheless, the distance such an individual may be moved is extremely limited and a reasonable standard would be to limit the distance to 100 feet or less. Stops are intended by law to be on-the-spot inquiries. When a suspect is moved farther ~~further~~ than a limited distance, courts will be more likely to conclude that an arrest has in fact been made, thus causing problems pertaining to developing a probable ~~reasonable~~ cause to arrest.

L 3309 **DURATION OF STOP:**
Revised 09-25-21

A person may be detained only at or near the scene of the stop for a reasonable time. Officers should detain a person only as long as is reasonably necessary to conclude the investigation, including the completion of a Street Check. Should further suspicious circumstances arise during this period, the officer may detain the person until the further suspicious circumstances can be investigated. A reasonable guideline is that the stop should be terminated within 20 minutes unless more time is required to verify a person's identity and/or the reliability of the answers given. However, officers should not detain a person in excess of this time limit merely to ask further questions.

L 3310 **DOCUMENTING A STREET CHECK FIELD INTERVIEW RECORDS:**
Revised 09-25-21

Since a detention is based on suspicious activity that relates to crime, officers should complete a Street Check in the Mobile Report Entry (MRE) when a detention occurs. In addition, officers initiating a detention are encouraged to add a text document detailing the specific facts and circumstances which justified the stop. If warranted, a General Offense Report (Form 200-2-AFR) or Narrative/Supplemental Report (Form 200-3A-AFR) can also be completed.

L 3311 **PHOTOGRAPHING PERSONS DURING DETENTIONS:**

Note: This section was not revised. It is included in this memorandum for context only. This note will not be included in the Duty Manual.

Officers may take photographs of detained persons in relation to the specific crime for which the person is being detained. The following information will need to be documented in a General Offense Report (Form 200-2-AFR), Street Check, Narrative/Supplemental Report (Form 200-3A-AFR), or any other investigative report completed during the contact with any person being photographed:

- The legal justification for the detention
- Details regarding the crime and the detainee's relationship to that crime, case number, name and DOB of person photographed, date of photograph and the photographing officer's name and badge number
- If consent is required, the act of consent is recorded in the report. The exact verbal statement providing consent is documented (Example: "Go ahead, I don't care"). Merely writing "consent" is insufficient

If the person is believed to be a gang member, the information on the accompanying documentation should include the subject's claim of gang affiliation or additional gang membership criteria, such as those listed in the Street Check.

Note: Consent to take a person's photograph is not needed when a subject is under arrest (including citable offenses) or when taking pictures of an individual in criminal investigation surveillance.

L 3312 **REQUESTING/DEMANDING IDENTIFICATION FOR A STREET CHECK:**

Added 09-25-21

Consensual Encounter

An officer may ask for identification from a person during a consensual encounter. An officer may not demand identification from a person during a consensual encounter. There is no statutory requirement for a person contacted during a consensual encounter to identify oneself, unless probable cause is established during the consensual encounter.

Reasonable Suspicion

An officer may ask for or request identification from a person detained with reasonable suspicion. However, there is no statutory requirement for a person contacted during a detention, without probable cause, to identify oneself, unless probable cause is established during the contact.

Probable Cause

An officer may ask for or demand identification from a person detained with probable cause. Refusal to identify oneself after probable cause has been established may, under certain circumstances, constitute a violation of Penal Code section 148(a)(1).

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:DK