



GOVERNMENT OF THE DISTRICT OF COLUMBIA OFFICE OF POLICE COMPLAINTS

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PCB POLICY REPORT #24-3: Part 1: Differentiating Field Contacts from Investigatory Stops

Summary:

Metropolitan Police Department (MPD) officers interact with community members in the District every day. Officers are routinely tasked with making subtle legal distinctions between field contacts, wherein a member can make contact with a community member for any reason, at any time, in any place the member has a right to be, and investigatory stops, wherein a member must have reasonable articulable suspicion that crime is afoot to lawfully detain an individual.¹ To protect against government intrusion on individual liberty, the Fourth Amendment to the U.S. Constitution arms people with the right to be free from unreasonable searches and seizures. Any unlawful stop is a seizure that strips people of this right, if only temporarily. The Office of Police Complaints (OPC) acknowledges that there is external pressure on MPD officers to seize illegal firearms in D.C. However, apart from infringing on constitutionally protected interests of private citizens, unlawful stops can render any seized evidence inadmissible in court, resulting in reversed convictions secured by prosecutors that relied on guns seized by MPD officers.² To help improve officer efficacy and protect constitutional rights of community members, the Police Complaints Board (PCB) recommends that MPD incorporate additional guidance on the distinction between field contacts and stops into its general orders and officer training.^{3 4}

Applicable Directive or Law:

¹ See MPD General Order 304.10, Field Contacts, Stops, and Protective Pat Downs, at 4–5, available [here](#) (“Members may initiate a field contact with an individual in any place the member has a right to be . . . If a member has reasonable suspicion that an individual has committed, is committing, or is about to commit any crime, the member has the authority to stop the individual for the purpose of determining whether or not probable cause exists to arrest”).

² Alex Koma, *D.C. Judges Keep Tossing MPD Gun Seizures Out of Court. Have Cops Changed Their Ways?*, WASH. CITY PAPER, (June 25, 2024), <https://washingtoncitypaper.com/article/722768/d-c-judges-keep-tossing-mpd-gun-seizures-out-of-court-have-cops-changed-their-ways> (describing opinions handed down by the D.C. Court of Appeals offering clarification on the standards needed for officers to stop civilians).

³ The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

⁴ The PCB would like to recognize and thank legal intern Nicholas Reuter for his contributions to this policy recommendation.

The Fourth Amendment protects citizens from unreasonable searches and seizures. When the police stop a citizen, the person’s constitutional rights are violated unless the officers can justify the detention with reasonable articulable suspicion.⁵ Officers must support their finding of reasonable suspicion by articulating specific facts that lead the officer to suspect someone has been, is, or will be involved in criminal activity, which amount to more than a “hunch.”⁶ Importantly, the determination of whether reasonable suspicion exists must consider the totality of the circumstances. In every encounter with community members, officers need to be aware of two things: 1) whether the encounter is a contact or a stop; and 2) if it is a stop, they must have reasonable, articulable suspicion that crime is afoot.⁷

In recent years, D.C. case law regarding the distinction between field contacts and stops has evolved, shedding light for officers on factors tending to render an encounter a stop for which officers need reasonable suspicion.⁸ In *Dozier v. United States*, four uniformed, armed MPD officers saw Mr. Dozier at the mouth of an alley, and maneuvered their cruisers in front of the alley, while two officers approached Mr. Dozier on foot. The officers asked to speak with him, but Mr. Dozier initially ignored them. The officers tailed Mr. Dozier and repeated their request to speak with him, this time from a closer distance. After the second request, Mr. Dozier succumbed to this pressure and acquiesced to the officers’ request to speak. The officers argued that because “they simply walked up, asked a few questions in a ‘normal’ tone of voice, and did not take any action that amounted to a show of force or that was otherwise intimidating,” that the encounter was consensual and was not a stop.⁹ The D.C. Court of Appeals disagreed.¹⁰ The Court explicated that a reasonable person in Mr. Dozier’s position would not have felt free to leave due to the officers’ physical encroachment, the presence of multiple officers, insistent questioning, being alone in a secluded alley at night, and the added pressure of being an African American man.¹¹ The Court also noted that because the incident took place in a high crime area, it was expected that a person in that area would be aware that officers in the area expected to find criminal activity there, making the officers’ questioning more “pointed and coercive.”¹² The Court ruled that the encounter was a non-consensual stop because “in this case the message came through that appellant was not free to decline the request for a pat-down or terminate the encounter.”¹³ Because there was no reasonable articulable suspicion for the stop, the Court reversed Mr. Dozier’s conviction after concluding the officers’ seizure of Mr. Dozier was

⁵ See *Terry v. Ohio*, 392 U.S. 1, 9 (1968) (“wherever an individual may harbor a reasonable expectation of privacy, he is entitled to be free from unreasonable governmental intrusion”).

⁶ *Id.* At 27 (“in such circumstances, due weight must be given not to [the officer’s] inchoate and unparticularized suspicion or “hunch,” but to the specific reasonable inferences which he is entitled to draw from the facts”).

⁷ See *Id.* at 30–31 (establishing that reasonable articulable suspicion justifies a brief stop without probable cause).

⁸ See *Dozier v. United States*, 220 A.3d 933 (D.C. 2019); *Golden v. United States*, 248 A.3d 925 (D.C. 2021); *T.W. v. United States*, 292 A.3d 790 (D.C. 2023).

⁹ *Dozier*, 220 A.3d at 941.

¹⁰ *Id.* (“The message that a suspect is not free to leave or terminate [an encounter] can be conveyed, not necessarily intentionally, in ways less obvious than actual physical force or [an] explicit command”).

¹¹ *Id.* at 944 (“This fear is particularly justified for persons of color, who are more likely to be subjected to this type of police surveillance”).

¹² *Id.* at 943 (“Against that awareness, the officers’ repeated questioning and escalating requests would have felt even more pointed and coercive”).

¹³ *Id.* at 947 (acknowledging that police requests can sometimes present legitimate choice, but that ultimately, “actions speak louder than words”).

unlawful and the contraband subsequently seized from his person should have been excluded from evidence under the exclusionary rule as fruit of the poisonous tree.

In April 2021, the D.C. Court of Appeals reiterated its *Dozier* ruling in *Golden v. United States*. In this case, four MPD officers targeted Mr. Golden because he was walking alone on a public street with a sweatshirt tied around his waist and one officer saw a bulge that “could have been anything” on his right hip.¹⁴ MPD officers proceeded to box Mr. Golden in with their cruisers and subjected him to repeated, insistent, and implicitly accusatory questioning. The Court ruled that because of the manner of questioning and the display of police authority made by the convergence of multiple cruisers, combined with Mr. Golden being alone at night, the encounter was a stop.¹⁵ The Court reasoned that after the officers accused Mr. Golden of carrying a firearm, no reasonable person in these circumstances would believe the officers were giving them a choice to decline their requests. Since “the reasonable innocent individual thus would feel compelled to allay the officers’ suspicions by acceding to their wishes in order to get the confrontation over with and be released,”¹⁶ this was a seizure. The Court held that because the police observed nothing more than Mr. Golden walking with a sweatshirt around his waist and a bulge that could have been anything, this scant information did not provide reasonable suspicion to initiate a stop. The Court concluded that Mr. Golden’s convictions must be vacated on Fourth Amendment grounds.

In April 2023, the D.C. Court of Appeals reinforced its previous rulings in *T.W. v. United States*, by listing factors that should be evaluated when determining whether an encounter is a field contact or a stop. These factors include, but are not limited to, whether: “(1) the individual is by himself in the area so that the police presence was apparently focused exclusively on him; (2) the encounter is in a place that is secluded or out of public sight; (3) the officers are uniformed or have their weapons visible; (4) the officers have blocked the individual's potential exit paths or means of egress; (5) the officers’ questions are accusatory; and (6) the officers repeat accusatory questions in the face of an initial denial, signaling that they have refused to accept the answer given.”¹⁷ The Court ruled that when MPD officers pulled their cruisers into an alleyway to focus on T.W., who was alone, blocked T.W.’s exit with the vehicles, surrounded him from both sides on foot with four officers, subjected him to accusatory questioning, and then asked if they could search him, the encounter was a stop. The Court noted that these factors would have led a reasonable person in T.W.’s shoes to believe they were not free to leave. Thus, the Court reversed T.W.’s convictions.

In each of these cases, the D.C. Court of Appeals held that repeated, insistent, or implicitly accusatory questioning, particularly when combined with the intimidating and coercive atmosphere created by impressive displays of police authority, can create an impression in the mind of a reasonable person that the police would not allow the suspect to terminate the

¹⁴ *Golden v. United States*, 248 A.3d 931, 942 (D.C. 2019) (“A ‘generic bulge’ in the location the officer saw it ‘can be explained by too many innocent causes to constitute ‘reasonable’ suspicion’ by itself”).

¹⁵ *Id.* at 935 (“A police officer may effect a seizure without using physical force by means of a show of authority”) (internal quotation marks omitted).

¹⁶ *Id.* at 937–38.

¹⁷ *T.W. v. United States*, 292 A.3d 790, 795 (D.C. 2023).

interaction before satisfying the officers' concerns.¹⁸ Police encounters under such circumstances are considered stops under District of Columbia law and must be supported by at least articulable reasonable suspicion. This Fourth Amendment jurisprudence has been well established by courts for decades. It is important that officers keep these factors in mind when they approach individuals in what they believe might be field contacts, as the encounters may be considered by D.C. courts to be stops.

Current MPD Policies:

General Order 304.10, Field Contacts, Stops, and Protective Pat Downs, explains that field contacts may be initiated at any time for any legitimate, police-related purpose, and do not require probable cause, reasonable suspicion, or any other indication of criminal activity.¹⁹ Because field contacts require nothing but voluntary cooperation, they may be terminated at any time if the individual withdraws their willingness to cooperate. General Order 304.10 notes, "*Members must constantly keep in mind that the distinction between a field contact and a stop depends on whether, under the particular circumstances, an individual could reasonably perceive that he or she is not free to leave the member's presence.* Therefore, members shall take special care to act in as restrained and courteous a manner as possible."²⁰ The general order gives officers guidance on how to keep a field contact from becoming a stop by doing things such as: avoiding short responses that could be misunderstood or requests that sound like commands, phrasing verbal requests with optional words, keeping the contact as brief as possible, putting individuals at ease and establishing rapport, and informing individuals that they have the right to refuse or leave if individuals ask if they must respond to officers.²¹

Yet, General Order 304.10 does not include guidance from recent decisions from the D.C. Court of Appeals on factors that might make a person feel that they are not free to leave a police interaction, which would render an interaction an officer might believe is a field contact a stop. Some of these factors noted by the Court include: the subject's race and presence in a high crime area, which might cause "reasonable apprehension about triggering aggressive police actions if the person is in a neighborhood or belongs to a group routinely targeted by police,"²² the physical location and time of encounter, the subject being alone, the number of officers involved and their positioning, the subject's freedom of movement, perceived level of police suspicion,²³ persistent and/or implicitly accusatory questioning, etc. Thus, it would be prudent for MPD to provide additional written guidance and training consistent with DC case law on the difference between field contacts and stops.

¹⁸ *Golden*, 248 A.3d at 935–36 ("we have recognized that repeated or insistent (and implicitly accusatory) questions or requests designed to ferret out whether someone stopped on the street is in possession of weapons or contraband, particularly in conjunction with other intimidating or coercive circumstances, can create a powerful impression to any reasonable person that the police will not allow the suspect to terminate the inquiry and depart before satisfying the officers' concerns").

¹⁹ See MPD General Order 304.10, *supra* note 1, at 1–2 ("Members may initiate a field contact with an individual in any place the member has a right to be").

²⁰ *Id.* at 2 (emphasis added).

²¹ *Id.* at 2–3.

²² *Dozier v. United States*, 220 A.3d 933, 947 (D.C. 2019).

²³ *Id.* at 944 ("We think it is evident that the pressure a person might feel to cooperate as part of his civic responsibility is by its nature different from the pressure felt by a person who thinks he might be suspected of criminal activity").

Case Examples:

A review of OPC complaints filed between 2019 and 2024 revealed that independent Complaint Examiners sustained more than ten unlawful stop allegations in that time period alone.²⁴ Through interviews with the subject officers involved in these complaints, OPC has observed that the officers often demonstrate confusion as to the distinction between field contacts and stops.

Case Example 1:

In November 2019, the complainant alleged that the subject officers harassed him when they unlawfully stopped him and searched his person.²⁵ The complainant was legally parked in his work truck when two MPD officers pulled up next to him, exited their vehicle, and approached him. The complainant immediately put both hands out of the driver's side door and informed the officers that he had a firearm and a concealed carry permit.

The officers removed the complainant from the car and placed him in handcuffs. They then reached into the complainant's pocket to retrieve his wallet and concealed carry permit, without informing the complainant or asking for his consent. After the officers were satisfied with the permit's authenticity, they removed the handcuffs.

In interviews with OPC, both officers stated that the encounter was initially a field contact. One officer said the difference between a contact and a stop is when the subject they encounter is detained and no longer free to leave. Both officers believed that the contact did not turn into a stop until they physically removed the complainant from the vehicle and placed him in handcuffs. The Complaint Examiner disagreed, finding that the encounter became a stop the moment the MPD cruiser pulled alongside the complainant's truck, blocking him into his parking spot. Cars were parked in front and back of him and the cruiser's location would have blocked him from leaving the parking space. Both officers confirmed that the complainant exhibited no suspicious behavior prior to or during the encounter, yet they boxed him in his parking spot, exited their vehicle, approached him on either side of his vehicle, and shone their flashlights into his car, indicating that he was not free to leave. The officers escalated the encounter to a stop without reasonable suspicion to believe the complainant was involved in the commission of a crime, and they demonstrated misunderstanding on the distinction between stops and field contacts in their interviews. Due to the impermissible stop based on the officers' misapprehension of the law, the Complaint Examiner sustained the unlawful stop and search allegations against the officers.

Case Example 2:

In October 2021, the complainant alleged that two MPD officers harassed him when they unlawfully stopped him.²⁶ The complainant was parked in front of his uncle's apartment in Southeast D.C. when the officers saw that he was speaking on the phone from the driver's seat.

²⁴ See OPC 18-0413, available [here](#), OPC 19-0402, available [here](#), OPC 19-0723, available [here](#), OPC 20-0105, available [here](#), OPC 21-0233, available [here](#), OPC 22-0022, available [here](#), OPC 22-0411, available [here](#), OPC 23-0079, available [here](#), OPC 23-0260, available [here](#), OPC 23-0586, available [here](#), OPC 23-0772, available [here](#).

²⁵ OPC 20-0105, available [here](#).

²⁶ OPC 22-0022, available [here](#).

One officer exited the MPD cruiser and approached the driver's side of the complainant's car. The second officer backed the vehicle up and then pulled forward and parked diagonally in front of the complainant's car a foot or two from the complainant's bumper in a position that prevented the complainant from leaving. The first officer engaged the complainant in conversation while the second officer exited the car and positioned himself in front of the complainant's passenger side door. Throughout the conversation, the two officers stood close enough to the car doors that the complainant was unable to exit the vehicle while shining their flashlights through the windows. In their interviews with OPC, both officers initially asserted that their interaction with the complainant was a field contact, not a stop. OPC asked the first officer what, if anything, the complainant did that initially made the officer believe he was involved in suspicious activity. The officer responded, "Not suspicious, it's just checking on his welfare. We can check, we can talk to anybody..." Both officers told OPC they believed the complainant felt free to leave after they pulled up to his car and they approached the complainant's car door on foot. The officers claimed they escalated the encounter to a stop only after they saw the complainant's gun and stepped him out of the vehicle.

Neither officer was able to articulate facts supporting reasonable suspicion apart from an inaccurate claim that the complainant's vehicle was illegally blocking an alley. The Complaint Examiner sustained the unlawful stop allegation based on the officers' lack of reasonable suspicion. The officers in this case did not understand that by physically blocking the complainant's vehicle and person, approaching his vehicle from both sides and shining their flashlights on him, a reasonable person in the complainant's position would not have felt they were free to leave, rendering the encounter an unequivocal stop.

Case Example 3:

In January 2023, the complainant alleged that the subject officer harassed her minor nephew when he unlawfully stopped him.²⁷ The complainant's nephew was standing in front of an apartment building amid a group of his friends when nine MPD officers approached them. The group attempted to walk slowly back into the apartment, with the complainant's nephew at the back of the group. The subject officer asked one of the boys, "What's that in your pocket? Is that...is that weed right there?" The boy responded, "No."

The subject officer then turned to the complainant's nephew. As with the first boy, the subject officer said, "Hey, you got a bunch of weed in your pocket there? This little kangaroo pouch?" When the complainant's nephew denied having marijuana, the subject officer said, "Could you come over here real quick and just talk to me?" By this point, several other officers had caught up with the subject officer and surrounded the complainant's nephew, impeding his ability to terminate the encounter. The subject officer then asked if the complainant's nephew had a gun, which he denied. The subject officer was not satisfied by that answer, and asked, "Do you mind if I check? You can say no, but I just want to check. Real quick, send you on your way if there's no guns. That's cool?" The complainant's nephew insisted he did not have a gun, to which the subject officer responded, "Can I check real quick? You can say no." The complainant's nephew finally acquiesced. The subject officer patted the boy down and did not find a gun.

²⁷ OPC 23-0260, available [here](#).

In his interview with OPC, the subject officer disavowed that the encounter with the complainant's nephew was a stop, saying, "I'm not even sure it's a stop; I don't, I don't think it's a stop." When asked if he stopped or detained any individuals during the incident, he explained that he felt he did not do anything that would prevent the men from leaving the interaction. Yet, the officer failed to understand that with nine officers approaching and surrounding the subject, and his repeated accusatory questioning, the interaction was indeed a stop. The Complaint Examiner found that the encounter was an unlawful stop as opposed to a contact and sustained the complaint against the subject officer for detaining the subject without reasonable suspicion.

Recommendations

To help improve community relations and trust between MPD and community members, the PCB recommends that:²⁸

- 1. MPD should add additional guidance to General Order 304.10 regarding specific police actions, suspect characteristics, and other factors that distinguish field contacts from stops. Furthermore, MPD should ensure the additional guidance is consistent with D.C. case law.**

The law in the District of Columbia is clear: when officers initiate encounters by surrounding citizens with either police vehicles or bodies, and subject citizens to repeated, insistent, or implicitly accusatory questioning, those encounters are not field contacts; they are stops.²⁹ Training should reiterate that the distinction between a field contact and a stop depends on whether, under the particular circumstances, an individual could reasonably perceive that he or she is not free to leave the member's presence. Adding guidance from D.C. case law into General Order 304.10 would provide officers with factors that may differentiate a consensual encounter from a seizure, the latter requiring reasonable, articulable suspicion.

- 2. MPD should provide training to all sworn officers on the updates to GO 304.10.**

The OPC cases listed above indicate that MPD does not provide adequate training to its officers regarding the distinction between field contacts and stops. When MPD officers are unable to make this distinction accurately in the field, they run the risk of violating citizens' constitutional rights, and they risk overturned convictions tainted by unlawfully obtained evidence.³⁰ Training new and veteran officers would provide much needed clarity to officers in the field. MPD can accomplish this by updating its training for new recruits and with roll-call training and annual professional development training.

²⁸ OPC and the PCB provided a draft version of this recommendation to MPD for review and comment. MPD largely agreed with the recommendations and noted that they are updating General Order 304.10 and continuing to train members.

²⁹ See *Dozier v. United States*, 220 A.3d 933 (D.C. 2019); *Golden v. United States*, 248 A.3d 925 (D.C. 2021); *T.W. v. United States*, 292 A.3d 790 (D.C. 2023).

³⁰ *D.C. Judges Keep Tossing MPD Gun Seizures Out of Court*, *supra* note 2.