

SPRINGFIELD POLICE DEPARTMENT

Standard Operating Guideline

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| Accreditation Index: 1.1.1, 1.2.1, 1.2.3, 1.2.4, 1.2.5, 61.1.2 | | | 101.3 |
| Part Title: Administration | | Chapter Title: Role and Authority | |
| Chief of Police: | | | |

Limits of Authority

I Policy

The purpose of this policy is to establish guidelines for arrest, search, and seizure decisions by Springfield Police Officers in order to assure that they are made in a manner consistent with federal and states laws, and constitutional guidelines.

II Definitions

Consent: Permission for an officer to search a constitutionally protected area given by a person with standing to grant it. That permission must be given without force, duress, or compulsion of any kind.

Field Interview: A brief detention of a person to determine the person's identity and to resolve the officer's suspicions about possible criminal activity. A field interview is intended to resolve an ambiguous situation. A field interview contrasts with an investigative stop in that an investigative stop must be based upon reasonable suspicion of criminal behavior. A field interview may be conducted only with the voluntary cooperation of the citizen being interviewed.

Frisk: A "pat down" search of the outer garments for a weapon.

Investigative Stop: The temporary detention of a subject when the officer has reasonable suspicion that criminal activity has occurred, is occurring, or is about to occur and that the person to be stopped is involved.

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Probable Cause: Facts and circumstances that would lead a reasonable and prudent officer, acting in a cautious manner, to believe that a crime has been committed, and the person in question committed the crime.

III Procedure

1 OATH OF OFFICE (CALEA 1.1.1)

- 1.1 Upon graduation from the Police Academy, and in order to assume sworn status, each new graduate shall be administered the oath of office by the City Clerk, or other authorized official.
- 1.2 Upon receiving the oath of office, each new officer shall execute a sworn affidavit, as provided by the City Clerk or other authorized official, agreeing to support the Constitution of the United States and the State of Missouri, comply with the laws of the City of Springfield, and faithfully discharge the duties of Police Officer.

2 LEGAL AUTHORITY (RSMo 544.216) (CALEA 1.2.1)

- 2.1 Springfield Police Officers are state certified peace officers possessing the power of arrest, search, and seizure.
- 2.2 Officers shall at all times exercise their authority in a fair and impartial manner so as to safeguard the constitutional rights of the persons with whom they come into contact, while enforcing the law to enhance public safety.
- 2.3 Geographic jurisdiction
 - 2.3.1 Police officers have authority to enforce laws within the corporate limits of the City of Springfield.
 - 2.3.2 Police officers have authority to enforce ordinances and statutes upon lands operated by and managed under authority of the Springfield Park Board, both within and outside the corporate city limits, including, but not limited to Ritter Springs Park and Rivercut Golf Course.
 - 2.3.3 Police officers have authority to enforce ordinances and statutes upon lands operated by and managed under authority of any city department located within or outside the corporate city limits of Springfield; including, but not limited to Noble Hill Landfill and Southwest Water Treatment Plant.
 - 2.3.4 Police officers have authority to enforce ordinances and statutes upon lands operated by and managed under the authority of City Utilities and the Board of Public Utilities located either within or outside the corporate city limits of Springfield; including but not limited to the Southwest Power Plant, Fellows Lake, and McDaniel Lake.
 - 2.3.5 Police officers shall have authority to respond to incidents, enforce

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ordinances and statutes upon any lands annexed under authority of City Council upon the effective date of such annexation.

2.4 Extra-Jurisdictional Authority (RSMo 70.820)

2.4.1 Springfield Police Officers have the authority to carry concealed firearms outside the corporate limits of the City of Springfield within the State of Missouri and in other states as provided by law. When doing so, officers shall exercise due caution to promote concealment and avoid public alarm;

2.4.2 Springfield Police Officers are empowered, but not required to respond to an emergency situation anywhere in the State of Missouri when the officer has the reasonable belief that a crime is about to be committed, is being committed, or has been committed, involving injury or the threat of injury to any person, property, or governmental interest.

2.4.3 Springfield Police Officers are empowered, but are not required to arrest on view and without a warrant, at any place within the State, any person the officer sees asserting physical force or using forcible compulsion for the purpose of causing or creating a substantial risk of death or serious physical injury to any person or persons. Any such action and the circumstances subsequent to it shall be deemed to be within the scope of the officer's employment.

2.4.3(a) In the event the officer uses extra-jurisdictional police authority, whether on or off duty, they shall immediately report the incident through their chain of command.

2.4.3(b) Whenever any such action occurs, the officer shall request that a copy of the report be sent from the investigating law enforcement agency to the Chief of Police.

3 INTERVIEWS AND INTERROGATIONS, ACCESS TO COUNSEL

3.1 Officers will at all times treat individuals being interviewed or interrogated fairly and with respect. No statements or confessions will be taken in a manner that is in any way in violation of their constitutional rights.

3.2 Protection of Citizens Rights

3.2.1 Miranda warnings shall be given when two conditions are both met: (CALEA 1.2.3(b))

3.2.1(a) The subject is in custody *and*

3.2.1(b) The officer intends to interrogate the subject. ¹

3.2.2 Miranda warnings may be given verbally or in writing. In either case,

¹ Section 3.2.1(b) revised for clarification, per Policy Change Order 17-047.

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the warnings must be acknowledged by the suspect as being understood, and those rights waived prior to interrogation. In the event that a suspect waives his rights but refuses to sign a waiver form, the officer will document the refusal and may then interrogate the suspect. In the event that the suspect invokes his rights at any point, all interrogation must cease. Interrogation may not be reinitiated except in accordance with case law in effect at the time. (CALEA 1.2.3(a) and 1.2.3(b))

- 3.2.3 Suspects who have an insufficient command of English to clearly understand their rights or the questions being asked them shall be provided with an interpreter by the department prior to any interrogation.
- 3.2.4 There are occasions when the officer believes that a suspect to be interrogated may not understand his rights due to the level of intoxication or other impairment. In these situations the officer shall confirm that the suspect understands their rights through interactive questioning, prior to any interrogation. (CALEA 1.2.3(b))
- 3.2.5 Officers should make note of any unsolicited statements made by a suspect in custody and are under no obligation to provide him with any advice to stop, or to stop him for the purpose of advising him of his rights.

4 PRETRIAL PUBLICITY

- 4.1 Press releases relative to arrest or detention of a suspect will be made in accordance with the guidelines established in SOG 303.1 Public Information.

5 SEARCHES AND SEIZURES (CALEA 1.2.4) ²

- 5.1 Search by consent – A Springfield Police Officer may conduct a search of any person, place, or thing without probable cause when the person having legal control (sole or common authority or standing) over that area consents to the search.
 - 5.1.1 Consent must be freely and voluntarily given;
 - 5.1.2 Burden of proof is on the officer to prove voluntariness;
 - 5.1.3 Consent may be withdrawn at any time by the suspect;
 - 5.1.4 Scope of the search may be limited in any way he/she wishes
 - 5.1.5 If the search exceeds the authorized scope, it is unlawful.

² Section 5 revised, incorrect CALEA standard references removed, per Policy Change Order 17-047.

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- 5.2 Frisk resulting from a detention – Although an officer may have reasonable cause to stop an individual, there must be a separate belief, based on articulable facts, that a suspect is armed and dangerous in order to justify a frisk.
 - 5.2.1 Limited pat-down of outer clothing;
 - 5.2.2 If a heavy overcoat is worn, the officer may require the subject to remove the coat so that a pat-down search may be conducted;
 - 5.2.3 Search is not limited only to the person of the detained suspect if reasonable suspicion exists that the person poses a danger:
 - 5.2.3(a) Scope in such cases is limited to the reach of the person where a weapon might be found.
 - 5.2.4 Lawful protective search extending beyond the person where no probable cause exists to arrest must have ALL the following elements present:
 - 5.2.4(a) A lawful investigative stop of a person or vehicle;
 - 5.2.4(b) Reasonable suspicion that the suspect poses a danger based on “specific and articulable facts, which taken together with the rational inferences from those facts, reasonably warrant the officer to believe the suspect is dangerous and that the suspect may gain immediate control of weapons.”
 - 5.2.4(c) Search must be limited to those areas where a weapon may be placed or hidden.
 - 5.2.4(d) Search must be limited to the area within the subject's immediate grasp.
- 5.3 Searches of vehicles under the movable vehicle exception – Officers shall be guided by the following basic principles, and will be kept apprised of changes in case law from the state and federal courts by the Training Unit.
 - 5.3.1 Due to the inherent mobility of a motor vehicle, the courts have historically held officers to a standard of probable cause for their search. This means that there are some conditions under which the officer does not need a search warrant in order to search a motor vehicle. Officers may search a motor vehicle without first obtaining a search warrant under the following conditions:
 - 5.3.1(a) The passenger compartment may be searched incident to arrest for evidence involved with the offense. (i.e. DWI, officer may search for evidence related to intoxicants.)
 - 5.3.1(b) Carroll Doctrine: If the officer has probable cause that the vehicle contains evidence of criminal activity, the officer may conduct a thorough search of any area of the vehicle in which the evidence might be found.

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- 5.3.1(c) Inventory: This is an administrative exception and may not be used as a pretext for a criminal search. An inventory shall be routinely conducted on all motor vehicles impounded by this department.
 - 5.3.1(d) Terry Frisk: If an officer has a reasonable suspicion that a passenger or recent occupant of a vehicle – whether arrested or not – is dangerous and may gain access to a weapon, they may frisk the passenger compartment for weapons.
 - 5.3.1(e) Consent: A properly executed consent search is always available to officers.
 - 5.3.1(f) Protective Sweeps: If an officer conducting an arrest reasonably suspects that a dangerous person is hiding in a nearby vehicle, the officer may conduct a protective sweep of the vehicle by looking in places where such a person might be concealed.
- 5.4 Searches at the scene of a crime
- 5.4.1 Officers will adhere to the following guideline with respect to searches of crime scenes: if the crime scene includes a constitutionally protected area, and a possible suspect might have a reasonable expectation of privacy in the scene, it will be searched pursuant to a search warrant.
 - 5.4.2 Exceptions:
 - 5.4.2(a) Officers may conduct protective sweeps of a crime scene for their protection prior to securing the scene pending a warrant or consent.
 - 5.4.2(b) Upon exigent entry, the scope of any search is limited to providing aid to those believed to be in need of assistance or to secure evidence in plain view. Once aid is provided, a search warrant must be obtained before searching for evidence or contraband.
 - 5.4.2(c) Constitutionally protected areas may be searched with the consent of a person with standing to give it.
 - 5.4.2(d) When the suspect is arrested in the crime scene, officers may search the area under the immediate control of the suspect if it is contemporaneous with the arrest.
 - 5.4.2(e) Officers may enter and search a constitutionally protected area under lawful exigent circumstances to include medical emergencies, or public safety issues such as a violent felony in progress or the reported presence of a bomb. This exception only extends to the termination of the emergency. At that point, another

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justification must be found.

- 5.4.3 At a crime scene, absent consent of the person having legal control over the premises or exigent circumstances as described above, officers will proceed with the application for a warrant.
- 5.5 Other situations authorized by state and federal provisions:
 - 5.5.1 Officers may enter an open field and search it for items subject to seizure when they have reason to believe that the stated item(s) are to be found at the location. The Fourth Amendment affords no protection to open fields. An open field is the area in proximity to a dwelling, but not within the curtilage of that dwelling.
 - 5.5.2 Officers may search public places when they have reason to believe that items subject to seizure are at the location. The Fourth Amendment affords no protection to public places. Public places are those locations owned or controlled by public entities that are available for public use. An example would be a public park.
 - 5.5.3 Officers may search private locations open to the public when they have reason to believe that items subject to seizure are at that location. The Fourth Amendment affords no protection to private places open to the public. These are locations that are privately owned, but are available for public use. An example would be the lobby of a bank.
 - 5.5.4 Officers may seize items that are immediately apparent as evidence when they come into view and the officer is lawfully searching in connection with a crime or they otherwise have a right to be where they are at the time.
 - 5.5.5 Officers may search abandoned property if it can be established that the owner or person in possession of the property intended to abandon it and did so freely.
 - 5.5.6 School Situations: School administrators must meet a standard less than probable cause for searches by school personnel. However, when a trained police officer enters into discussion or preparation for the search, the higher standard of probable cause may be required. (New Jersey v. TLO, 469 U.S. 325 (1985))
 - 5.5.6(a) Private school administrators and staff may search a student, student locker, and personal property at any time for any reason without a finding of probable cause. However, because the Fourth Amendment protects against government intrusion, once a police officer directs or causes school staff to search, Fourth Amendment requirements apply.

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6 DETENTION

6.1 Field Interview

6.1.1 The Fourth Amendment permits an officer to approach a person and ask if they are willing to answer questions, and to ask questions if the person is willing to listen and respond. The person's voluntary answers to such questions may be offered into evidence in any subsequent criminal prosecution of that person.

6.2 Investigative Stop

6.2.1 A law enforcement officer may temporarily detain a person in a public place if reasonable suspicion exists that a crime has been committed, is being committed, or is about to be committed; or the officer reasonably suspects that the person is illegally carrying a concealed weapon.

6.2.2 Officers may make such stops even if probable cause is insufficient to make an arrest. (*Terry v. Ohio*)

6.2.3 The following factors may be considered in determining whether reasonable suspicion exists to justify an investigative stop of a person. These factors must be considered in view of the officer's training, knowledge, and experience. All of the factors need not be present in order to establish reasonable suspicion:

6.2.3(a) The officer has valid knowledge that a person has a prior felony record;

6.2.3(b) The person fits the description of a wanted notice;

6.2.3(c) The person has exhibited furtive conduct (i.e.: an attempt to conceal an object from the officer's view, reaching under the seat of a car);

6.2.3(d) Clothing worn by the person is similar to the suspect's clothing described in notices for a known offense;

6.2.3(e) The person exhibits unusual behavior (i.e.: staggering or in need of medical attention);

6.2.3(f) The area or time of day are indicative of possible criminal activity;

6.2.3(g) Hearsay information is acceptable dependent upon the content of information known to officers and the degree of reliability. Officers must corroborate some of the hearsay information provided by citizens or anonymous tips when developing reasonable suspicion to conduct an investigative stop.

6.2.4 An investigative stop must be conducted as briefly as possible. The stop must be restricted only to the time necessary to confirm or dispel the officer's reasonable suspicion of criminal activity.

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- 6.2.4(a) Upon determining the basis for the stop no longer exists, the person detained will be immediately released.
- 6.2.4(b) The detention period may be lengthened ONLY if the suspicion becomes reinforced with additional supportive information or if the officer develops probable cause.



7 ARREST WITH/WITHOUT A WARRANT (CALEA 1.2.5 and 61.1.2(a))

7.1 Springfield Police Officers may arrest anyone within their jurisdiction when they have knowledge of the existence of a felony warrant, a misdemeanor warrant issued within this state, or they have probable cause to believe that the person has committed a violation of federal or state criminal laws, or is in violation of a Springfield city ordinance.

7.1.1 When possible, the officer will identify themselves as a police officer, clearly advise the suspect that they are under arrest, and advise them of the charge.

7.1.2 All arrested suspects will be searched incident to arrest, subject to the constraints in SOG 407.1 Prisoner Searches of Opposite Sex. The area of their immediate control may also be searched contemporaneous with the arrest. They will then be transported to the proper facility for booking as soon as is practical.

7.1.3 Arrestees will be afforded all the rights available to them under federal and state law, and case law; to include the right to be considered for bond by a judge, to communicate with family, friends, or counsel, and to release after 24 hours if no arrest warrant is issued. (CALEA 1.2.3(c))

7.1.3(a) Exception: an arrestee may be held briefly without the opportunity to communicate with persons outside the jail when that communication could represent a direct threat to officers in the performance of their duties. This exception may only be exercised with the permission of an officer of command rank and must be continuously reviewed for termination as soon as the threat that caused the restriction no longer exists. An example would be a series of search warrants being served on felons who are armed, violent, and known to be associates of each other.

7.2 Officers who are outside their legal jurisdiction may have limited police powers under special statutory authority.

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8 ALTERNATIVES TO ARREST

- 8.1 Absent the existence of an arrest warrant or a statutory provision to the contrary, Springfield Police Officers are not required to make an available arrest. Alternatives to arrest include: the issuance of a summons, a warning, or referral of a case to the appropriate prosecutor.
- 8.2 The factors that an officer shall consider in the decision to make an arrest or select an alternative shall include: the safety of the community, outstanding evidence to be recovered, the seriousness of the charge, the advisability of securing bond from the suspect, and the level of restraint necessary to resolve an ongoing situation. (CALEA 61.1.2(a))

9 PRETRIAL RELEASE

- 9.1 Prisoners in custody under authority of an arrest warrant shall not be released except with permission of a judge with jurisdiction over the offense.
- 9.2 Prisoners in custody on the basis of a warrantless arrest may be released by the arresting officer, follow-up investigator, any supervisor, or commander without posting bond. Relevant considerations will include the seriousness of the offense, the reasons that the arrest was made, and jail capacity constraints. (CALEA 61.1.2(a))
 - 9.2.1 Exception: Felony prisoners in custody on a warrantless basis shall not be released on a discretionary basis unless the arresting officer has responsibility for completing the case, or relevant Criminal Investigations Division personnel are consulted prior to the release.
- 9.3 Officers are strongly advised not to make arrests on minor charges when the sole justification is to secure bond. Those persons may be arrested upon the subsequent issuance of an arrest warrant if they fail to appear for arraignment.

IV Attachments