

	KENOSHA POLICE DEPARTMENT			
	POLICY AND PROCEDURE			
	1.5 Stop and Frisk			
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I. PURPOSE

The purpose of this policy is to provide guidelines to police officers regarding the proper procedure for conducting a stop and frisk.

II. POLICY

All members of the Kenosha Police Department should be familiar with the following terms and concepts. It should be noted that a proper “stop” will not automatically authorize a “frisk.” Officers must be able to articulate the “reasonable suspicion” required for a “stop” independently and separately from the “reasonable fear” required for a “frisk.”

III. THE STOP

Under the statute, there are six rules for the stop:

1. The officer must identify themselves as a law enforcement officer.
2. The stop must occur in a public place
3. The officer must reasonably suspect that the person is committing, has committed or is about to commit a crime. This quantum is not the same as probable cause to arrest; it is less than that, but more than “mere suspicion.” A person loitering in a high crime area late at night or jogging near a building site already burglarized might, in view of the officer’s experience, produce reasonable suspicion. The Courts have ruled that the tip of an untested informant, while not giving reasonable grounds for arrest, would give reasonable suspicion for a stop and frisk if the informant can provide a reasonable account of how they obtained this information.
4. The officer may demand the person’s name, address and explanation of their conduct. However, if the person quietly states, “I do not wish to say anything to you, even identify myself,” and causes no trouble at all, and there is no further information or facts which could lead the officer to “probable cause,” the officer must allow the person to go on their way. Refusal to answer an officer’s questions in of itself is not “obstructing an officer.”
5. The temporary detention for questioning must be in the vicinity of the initial stop. It may, for example, be out of the rain, but not at the station house six miles away.
6. The questioning may only be for a reasonable length of time. This will vary in different circumstances, but will include enough time to call in a stolen car inquiry or identity check.

1.5 Stop and Frisk

Wisconsin courts have held that mere flight from the presence of an officer is sufficient grounds for formulating a reasonable suspicion necessary for an investigatory stop. Also, if necessary, the officer may use force to compel a reasonable suspicion-investigatory stop.

Under the statute, the stop must occur in a “public place.” No definition of a “public place” is given and the court has not yet clarified the phrase. If the officer sees suspicious activity at a time at which the officer is in a public place, the requirement is probably satisfied. An officer on patrol at 3:00 a.m. might see a person attempting to enter a house through a side window. After questioning, it is revealed that the person is the owner of the house and has lost their keys. The “stop” has, thus, occurred on this person’s private property. The officer, however, either from their car on the public road or on foot on the public sidewalk, has, from a “public place”, viewed suspicious activity and is perfectly justified in further investigation. It is reasonable to assume that “public place” refers to a place accessible without breaking and entering.

IV. THE FRISK

For a frisk to be warranted after a person has been stopped, the officer must reasonably suspect that they or another is in danger of physical injury from that person. The officer is then entitled to conduct a limited search for weapons or objects which might be used as weapons. This means a pat-down of the person’s outer clothing and nothing more, unless an object is felt which might be a weapon. The frisk may not be used as an excuse to search for evidence.

An officer may lawfully seize an object during a frisk that is not suspected to be a weapon if the officer is experienced and trained in narcotic detection and enforcement and, based on that experience, can ascertain that the object felt is believed to be a controlled substance.

If the officer finds a weapon or dangerous instrument, it may be taken. Upon completion of the questioning, the officer must return the weapon or object if its possession by the person is legal unless, upon probable cause, they decide to arrest. If the officer finds contraband, it may be seized and may constitute grounds for a valid arrest. Once there is an arrest, a complete search incident to arrest may be made.

1.5 Stop and Frisk