

SUBJECT: Reasonable Suspicion
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REFERENCES: California Peace Officers Legal Sourcebook, Chapter 3
Training Bulletin: Legal Contacts with the Public, 2006
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LD 15: Laws of Arrest, Version 4.3

PERFORMANCE OBJECTIVE

Officers will be able to identify specific facts supporting reasonable suspicion to make a legal detention.

INTRODUCTION

To be lawful, an investigative stop or detention must be based on **reasonable suspicion**. The suspicion must be supported by facts, not just a hunch or instinct. These facts can be drawn from your observations, personal training and experience, or information from eyewitnesses⁷. In other words, “What made you believe this person was connected to this specific crime?”

What is Reasonable Suspicion?

Reasonable Suspicion is a set of **specific and articulable facts** that lead an officer to reasonably believe that:

- Unusual activity has occurred, is occurring, or is about to occur;
- The unusual activity is related to a crime;
- The person to be detained is associated with the criminal activity.

While it sometimes may be an easy matter to establish the presence of unusual, crime-related activity (for instance by noting that it’s a *high crime area*), it’s often more challenging to establish that the individual person to be detained is associated with it.

During a legal detention, officers may detain the individuals for as long as “reasonably necessary” to decide if a crime has occurred and if these individuals are responsible. Of course, “reasonable” is based on the circumstances and reason for the stop in the first place. While the investigation continues, the individuals are not free to leave and must submit to the officers’ authority.

Specific and Articulate Facts

When a court finds that officers lacked sufficient grounds for a detention, the problem is often that the stop was based on a generalization and not on specific facts. For instance, detaining a person because he is a known gang member would not constitute a valid legal detention. Something more “specific and articulable” is needed.

In other words, the officer must be able to indicate what the gang member was doing on this particular occasion that was unusual and possibly crime related. Officers are entitled to use their training and experience to evaluate what constitutes unusual crime related activity. What may not be unusual to an ordinary person may be possibly crime related activity to a trained and experienced officer.

When officers cite their training and experience, it is not enough, in and of itself, to establish reasonable suspicion. Officers would need to be able to describe exactly what the training and experience indicated about a particular situation.

In some cases, a detention is based on a single circumstance, such as the individual matching the description of a wanted person or a person who had just committed a crime in the area. In any case, the decision to detain is based on the totality of the circumstances.

Contributing Factors

The following are some of the factors that contribute to establishing reasonable suspicion. Though some of these factors would not be enough by themselves, a combination of them could justify a detention.

- Appearance or condition of a person (intoxicated, resemblance to wanted person)
- Actions (hiding objects, furtive movements, running from a crime scene)
- Driving behaviors
- Knowledge of the person’s “history” (criminal record or conduct)
- Demeanor (nervous, non-responsive)
- Time of day (unusualness)
- Location of the stop (near crime scene, known criminal activity in area)
- Officer training and experience (narcotics, gang, or vice, etc.)

NOTE: Flight by itself does not establish reasonable suspicion and cannot justify a detention.

CONCLUSION

An officer must be able to evaluate the contributing factors and answer the question: “What made you believe this person was connected to this specific crime?” Reasonable suspicion is not a hunch or instinct; it is suspicion supported by specific and articulable facts.

AFDR REMINDER

State Law and Department policy require all sworn personnel assigned to any field, specialized, or investigative assignment (e.g. patrol, task force, detective, and plain clothes assignments) to complete an AFDR for every person detained or searched no matter what the reason for the initiation of the encounter.

For example, you are not required to complete an AFDR when engaging in a consensual encounter because it is not a detention. If, however, you conduct a pat down search based on either consent or reasonable suspicion, you must complete an AFDR.

QUIZ

1. Reasonable Suspicion is a set of **specific and articulable facts** that lead an officer to reasonably believe that?

Answer:

- Unusual activity has occurred, is occurring, or is about to occur;
- The unusual activity is related to a crime; and
- The person to be detained is associated with the criminal activity.

2. Facts supporting reasonable suspicion can be drawn from...

Answer:

- Observations
- Personal training
- Experience
- Information from eyewitnesses, victims, or other officers

3. **True or False?** When officers have satisfied the criteria for a legal detention, they may detain the individuals for as long as “reasonably necessary” to decide if a crime has occurred and if the individuals are responsible.

Answer: True. When officers have satisfied the criteria for a legal detention, they may detain the individuals for as long as "**reasonably necessary**" to decide if a crime has occurred and if these individuals are responsible.