



Dennis-Yarmouth Regional High School

POLICE SERVICES UNIT

A Joint Unit of the Yarmouth Police & Dennis Police Departments

Establishing Reasonable Suspicion

Although police officers may not have probable cause or a warrant, they have the right to stop (i.e., seize) and question a person or vehicle if they have a reasonable belief that the person has committed, is committing, or is about to commit a crime. *Terry v. Ohio*, 392 U.S. 1 (1968). In *Terry*, a seasoned police officer observed two males repeatedly look into a storefront window. They were later joined by a third male. Each male was wearing a long coat. The officer suspected them of "casing" the store for an armed robbery. The officer stopped them. When the men "mumbled" a response, the officer conducted a frisk, which revealed a number of firearms. The Court held that the actions by the police officer were entirely reasonable even though probable cause did not yet exist. Therefore, before a police officer can effect a stop of an individual concerning a crime, they must have at least reasonable suspicion. If the police effect a stop concerning a public safety situation, the standard of evidence required to satisfy the 4th AMD will be merely reasonableness and not reasonable suspicion. Example: Police effect the stop of a motor vehicle prior to turning the corner onto a washed out bridge. Since the stop concerns a public safety situation (and not a MV infraction or criminal matter), the only justification required will be reasonable- ness. Reasonable suspicion is not required because there is no crime in the picture.

Generating Reasonable Suspicion

Before a police officer can effect a *Terry* stop (a.k.a., investigative detention, threshold inquiry, etc., etc.), he or she must be able to point to specific and articulable facts that the suspect has, is, or is about to commit a crime. A police officer can never effect a seizure just because he or she feels that a person is suspicious. Why is that person suspicious? The officer must be able to describe in words reasonably what caused those suspicions. The following are some examples of criteria that a police officer may use as specific and articulable facts. Note that any one of the below criteria may not be enough, in and of itself, to support the seizure.

- ▷ Activity inappropriate in its setting.
- ▷ Admissions and confessions
- ▷ Area known for criminal activity
- ▷ Association with known criminals
- ▷ Attempts to avoid contact with the police.
- ▷ Evasive answers, conflicting stories, refusal to answer
- ▷ Furtive gestures or flight
- ▷ Immediately verifiable information from an informant
- ▷ Individual matches description of "wanted" suspect
- ▷ Knowledge that a crime has been committed.

- ▷ Lack of "fit" with suspect and neighborhood.
- ▷ Observations consistent with criminal activity justifying a frisk
- ▷ Person's prior criminal record or reputation for criminal activity
- ▷ Proximity to the crime scene
- ▷ Real and physical evidence observed.
- ▷ Special training, knowledge or instruction of the officer
- ▷ Suspicious presence at a late hour in unusual location
- ▷ Time of the day or night
- ▷ Traffic violations
- ▷ Visible apprehension at the sight of police officers

Any individual walking down the street is effectively insulated from police action by the 4th AMD. ". ~ Therefore, before police can effect a seizure or detention, even momentarily, the police must have adequate cause to do so. On the other hand, if a police officer simply walks over to an individual and engages him or her in conversation, is there no requirement that the police first have specific and articulable facts required for a seizure under the 4th amendment. Simply walking over to a person and engaging them in a conversation is not a seizure or detention under the 4th amendment.