
	GAITHERSBURG POLICE DEPARTMENT		
	Field Interviews and Ban Notices		
	GENERAL ORDER	601.4	
Effective Date	01/04/2019	1.2.3	
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE <i>Mark Sroka</i>	DATE 01/04/2019

1. PURPOSE

- 1.1. Properly conducted and documented field interviews can contribute greatly to crime analysis and crime reduction. Field interviews serve as sources of information, a means of developing suspects and witnesses and as a crime prevention measure. Officers are encouraged to use this investigative tool consistent with Constitutional requirements and Department policy.
- 1.2. While business owners may exclude persons from their establishments, it may create the appearance of improprieties on behalf of the officers and the Department when making a technically lawful arrest. Therefore, the purpose of certain provisions of this policy related to trespassing and ban notices is to clearly identify the Department requirements to (1) issue a ban notice (2) provide a verbal order for a person to leave private property that is open to the public, and (3) procedural requirements to enforce such actions.

2. POLICY

- 2.1. It is the policy of the Department to utilize the Field Interview as a tool to gather information on suspicious individuals and/or situations when circumstances may indicate the possibility of criminal activity. Field interview information is intended for use in conjunction with other types of information for the purpose of developing leads on crime patterns or criminal activity.
- 2.2. Interviews will be conducted in a professional manner with due regard given to minimizing any potential reaction by individuals who are interviewed. Field Interviews may be conducted through consensual encounters or through investigatory stops of persons or vehicles. As always, the civil rights and liberties of persons will be respected and upheld at all times during these encounters.
- 2.3. The Maryland State Police ETIX Field Interview module (ETIX FI) is part of a statewide system that shares information with users of the system. This is consistent with modern information sharing programs to enhance law enforcement capabilities. Attention to detail to ensure data quality and supervisory review are instrumental to the success of this program.
- 2.4. The ETIX FI will be the Department's only Field Interview Report used in the field. Officers will not maintain their own field interview database.

2.5. The core values of the Gaithersburg Police Department are Service, Integrity and Respect. As such, a cornerstone of the Department's mission is to "...enforce Maryland laws and City ordinances, and protect the rights of all people." Accordingly, the Gaithersburg Police Department remains committed to enforcing all laws in a fair, equitable, and unbiased manner. Equally important, the Department will take necessary precautions to avoid creating the appearance of any improprieties that would undermine the mission when taking enforcement action.

3. **DEFINITIONS**

3.1. **Agent of the Owner:** Within the context of this directive, the term "Agent of the Owner" refers to the employees, managers, or owners of a private business that has authority to request a person either leave the business' property or authorize a ban notice to be issued to an individual.

3.2. **Ban Notice:** Within the context of this directive, the term "Ban Notice" refers to written notice given to a person who is being prohibited from entry to or presence upon a specified real property. The Department must be in possession of written legal authorization from a property owner in order for officers to act as authorized agents on private property for such purposes.

3.3. **Consensual Encounter:** Within the context of this directive, the term "consensual encounter" refers to a law enforcement contact with an individual in which there is no detention or seizure of that person, and a reasonable person in that situation would feel free to leave or decline to speak with that law enforcement officer.

3.4. **Investigatory Stop:** Within the context of this directive, the term "Investigatory Stop" refers to the brief stopping of an individual, whether on foot or in a vehicle, by a law enforcement officer, for the purpose of conducting an investigation to determine the individual's name and address and resolving the officer's suspicion of criminal conduct. A law enforcement officer may initiate an investigatory stop when they have reasonable articulable suspicion that an individual is committing, has committed, or is about to commit a crime, but probable cause does not yet exist to arrest and the officer wants to stop the suspect and investigate. An investigatory stop, often referred to as a "Terry Stop" is not synonymous with a "stop and frisk" as it is only one of the elements of a "stop and frisk."

3.5. **Field Interview Report:** Within the context of this directive, the term "field interview report" refers to an interaction in which a law enforcement officer identifies an individual and determines that individual's reasons for being in a particular area. A field interview report is not a ban notice.

- 3.6. **Reasonable Articulate Suspicion:** Within the context of this directive, the term “reasonable articulable suspicion” refers to when an officer, based on the specific and articulable facts, and the rational inferences drawn from those facts, believes that an individual committed, is committing, or is about to commit a criminal offense. Reasonable articulable suspicion may be based on direct observations or a combination of factors, including but not limited to, the individual’s prior criminal record, furtive conduct or flight from the police, the giving of evasive or conflicting responses to police questioning, admission or confessions, the nature of the area, and reliable hearsay.

4. PROCEDURE

4.1. Field Interviews:

- 4.1.1. Although not limited to the following situations, Field Interviews generally may be conducted under the following circumstances:
- 4.1.1.1. Documenting circumstances when officers find individuals in situations that are suspicious by time of day, location, behavior, etc., but no probable cause for arrest exists.
 - 4.1.1.2. Recording information on individuals who were in the company of persons who were arrested, but no probable cause to arrest existed for those subjects.
 - 4.1.1.3. Recording information of juveniles for very minor offenses when no arrest is made.
 - 4.1.1.4. Documenting circumstances to include subjects and/or vehicles when a crime has occurred, but no probable cause for arrest exists.
 - 4.1.1.5. An investigatory stop is not a field interview, although it may arise out of a field interview contact.
 - 4.1.1.6. A field interview report is by definition a limited consensual encounter or interaction with an individual that does not necessarily escalate into an investigatory stop and/or frisk, both of which initiate constitutional protections for that individual.
 - 4.1.1.7. Reasonable articulable suspicion is the standard for initiating a field interview report for a suspect of a crime; however, field interviews can come in other forms including witnesses to crimes and bystanders that voluntarily cooperate.
- 4.1.2. Field Interview Reports will not be completed for arrests or where the information is otherwise captured in the Department’s records

management system to include Incident Reports. This will also include traffic stops that result in a Ticket / Warning or a SERO unless there is a connection to criminal activity.

4.1.3. Recording the Field Contact

4.1.3.1. All field interview reports conducted by officers must have a criminal nexus in order for entry into any database.

4.1.3.1.1. Field Interviews conducted by officers will be recorded in the ETIX FI module. Officers must be trained in the use of the ETIX FI module before being allowed to use the system for this purpose. Officers will complete the Field Interview Report consistent with training.

4.1.3.2. The report will be filled out as completely as possible to include the event number, if one is generated. Officers should emphasize capturing a high level of detail to include accurate personal information, clothing descriptions, addresses, and phone numbers. Any additional information which may prove to be helpful should be recorded in the narrative portion of the report.

4.1.3.3. Officers are reminded that the ETIX FI system is a shared data system. As such, entries made in the City of Gaithersburg are viewed by other law enforcement personnel. Officers should not include any personal commentary and avoid the use of codes (2934, 0800, code 2 – male, etc.) in the writing of their Field Interview Reports, as the context of the message will be unknown to readers outside of the City. All Field Interview Reports will be written in a professional manner.

4.1.3.4. Officers should photograph persons, vehicles and items of interest related to the Field Interview, consistent with General Order 619.2 (Digital Photos and Recording of Crime Scene). Only photographs of subjects should be uploaded to the ETIX FI system. Other related photos should be uploaded to the Department's appropriate digital storage location.

4.1.3.5. The supervisor will review the Field Interview for accuracy and will approve it for final submission.

4.1.3.6. During a time when the ETIX FI system is down, officers will capture the field interview information manually and then enter the information no later than the officer's next work day when

the MSP ETIX system is functioning.

4.1.3.7. Field interview information obtained due to specific crime trends should be communicated to the Crime Analyst via email pending submission to the ETIX FI system.

4.1.4. Factors for Consideration

4.1.4.1. If an individual is seized pursuant to an investigatory stop, the person is not required to respond to the officer's inquiries. The subject can only be detained for the period of time required for an officer to either confirm or dispel suspicion that the individual is involved in criminal activity.

4.1.4.2. Pursuant to Section 15-4 (c) of the City Code, it is unlawful for a person at a public place or place open to the public to refuse to identify him/herself by name and address at the request of a uniformed police officer or a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable person that public safety requires such identification.

4.1.4.3. Other than providing their name and address, the person being interviewed is under no obligation to answer questions.

4.1.4.4. In a case of a consensual encounter, officers should be aware that some citizens are sensitive to any interaction with police and aggressive approaches may result in failure to obtain important information or support from the person being interviewed.

4.2. **Ban Notices**

4.2.1. Officers may issue a Department approved Ban Notice via GPD Form 601.4 to individuals encountered on properties where officers of this Department are authorized to act as agents of the owner (See List of Property Owners), pursuant to state law.

4.2.2. Persons being banned from a property will be provided with the appropriate copy of the Ban Notice. The ban duration will be one (1) year from the date of issuance.

4.2.3. Ban Notices shall contain complete information, legibly written, including the reason why the individual was banned from the referenced property.

4.2.4. A Field Interview Report should be completed whenever a Ban Notice is

issued.

- 4.2.5. A Ban Notice should not be issued to an individual solely based on that person violating a private business' policy on one occasion.
- 4.2.6. Officers shall not issue a ban notice if the request from the agent of the owner appears to be based solely on the individual's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, or disability.
- 4.2.7. To issue a ban notice, officers must have a minimum of reasonable articulable suspicion to believe that criminal activity is afoot and was committed by that individual or when an individual has violated a business' policy which has resulted in multiple police calls for service.
 - 4.2.7.1. Officers must take affirmative investigatory steps to confirm or dispel the reasonable articulable suspicion of committing a crime prior to issuing the ban notice. This temporary detention should be completed in a reasonable amount of time.
 - 4.2.7.2. Officers shall attempt to deescalate and mediate the disturbance between the individual and the agent of the owner prior to issuing a ban notice.
 - 4.2.7.3. If the property owner has not given the Gaithersburg Police Department prior written authorization to act as agents of the owner, officers must obtain written consent from the agent of the owner via Gaithersburg Police Department Banning Authorization Form prior to issuing the ban notice. The Banning Authorization Form (GPD Form 601.4) states:
 - 4.2.7.3.1. The name and employment address of the agent of the owner who is requesting the individual be banned from the premises for a period of one year;
 - 4.2.7.3.2. Signifies the requesting agent of the owner's promise and intent to come to court if the individual is ever arrested for violating this ban notice; and
 - 4.2.7.3.3. Provides a summary for the reason of the ban notice to be issued.

4.3. Verbal Order to Leave Private Property Open to the Public

- 4.3.1. There may be situations in which the agent of the owner wants an individual removed from a property, but does not desire that the person be banned for a period of one year or he/she does not want to come to court if an arrest is made. In these situations, the officer may give a verbal order to the individual to leave the premises.
 - 4.3.1.1. A verbal order to leave private property is a short-term trespass situation and only enforceable for generally a 24-hour period; and
 - 4.3.1.2. A verbal order to leave private property is more appropriate for situations where the individual has only violated, or is alleged to have violated a business policy.
- 4.3.2. Prior to issuing the verbal order to leave the property:
 - 4.3.2.1. Officers shall attempt to deescalate and mediate the disturbance between the individual and the agent of the owner and attempt to gain voluntary compliance from the individual prior to any verbal order;
 - 4.3.2.2. Officers shall interview the agent of the owner to find out why he/she is requesting the person leave the property;
 - 4.3.2.3. Have the agent of the owner consent or give the officers permission to order the person to leave the premises; and
 - 4.3.2.4. This interaction shall be recorded on BWC as proof of the request.
- 4.3.3. Officers shall not conduct a verbal order to leave the premises if the request from the agent of the owner appears to be based solely on the individual's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, or disability.

4.4. Trespassing Arrests

- 4.4.1. If a person refuses to leave a private or public property open to the public after being issued a ban notice or after being ordered to leave, an officer may take enforcement action with the following provisions:
 - 4.4.1.1. Officers shall attempt to deescalate and mediate the disturbance and make articulable efforts to gain voluntary compliance of the individual to leave the premises;

- 4.4.1.2. When such efforts have failed, an officer may issue a criminal citation for trespassing; and/or
 - 4.4.1.3. If the individual continues to refuse to leave the property at the completion of the citation or states to officers before the citation is issued that he/she does not intend on leaving or states to officers that he/she intends to return to the property after the officers leave, officers may make a full-custody arrest for Trespassing on Private Property (CR 6-403) or Trespassing on Public Property (CR 6-409).
- 4.4.2. An individual that returns to a **private property open to the public** while a ban notice is still in effect:
- 4.4.2.1. If the person is causing a public disturbance or threatening public safety in the officers' presence, officers may make a full-custody arrest for trespassing and any additional charges, if applicable;
 - 4.4.2.2. If a person is not causing a public disturbance or threatening public safety:
 - 4.4.2.2.1. Officers may issue a criminal citation for trespassing; and/or
 - 4.4.2.2.2. If the individual continues to refuse to leave the property at the completion of the citation or states to officers before the citation is issued that he/she does not intend on leaving or states to officers that he/she intends to return to the property after the officers leave, officers may make a full-custody arrest for Trespassing on Private Property (CR 6-403).
- 4.4.3. An individual that returns to **public property open to the public** in general while a ban notice is still in effect:
- 4.4.3.1. Officers must observe the person causing a public disturbance in order to take enforcement action:
 - 4.4.3.1.1. Prior to taking any enforcement action, officers shall attempt to deescalate and mediate the disturbance with the goal of having the individual voluntarily leave the property;
 - 4.4.3.1.2. After such efforts by the officer and if the

individual continues to refuse to leave the property or is causing a disturbance, the officer may issue a criminal citation for Trespassing on Public Property (CR 6-409); and/or

4.4.3.1.3. After issuance of the citation, if the individual continues to refuse to leave the property, or states to officers before the citation is issued that he/she does not intend on leaving or states to officers that he/she intends to return to the property after the officers leave, officers may make a full-custody arrest for Trespass on Public Property (CR 6-409).

4.4.3.2. If the individual returns to the property and is not causing a public disturbance and there is no probable cause for arrest for an unrelated criminal offense, officers cannot deny that individual entry back onto the property based solely on the issued ban notice.

4.4.4. GPD officers shall only take enforcement action on GPD issued ban notices.

5. Maintenance of Records

5.1. Field Interviews will be retained in the Maryland State Police database for at least five (5) years.

5.2. Gaithersburg Police Department Ban Notices shall be retained for at least five (5) years.