**SAMPLE POLICE DEPARTMENT**

**Terry Stops and Demanding Identification**

NOTE: This document is for internal use only. It does not establish a legal duty or standard of care for civil liability or enlarge an employee’s civil or criminal liability in any way. A violation of this policy may only form the basis for internal discipline by this agency and then only in a non-judicial administrative setting.

1. **PURPOSE**

To establish effective and lawful guidelines to officers on when and for what the legal basis is under the US Supreme Court and the Code of Alabama for demanding identification from individuals as the result of a “Terry Stop” or investigative detention.

1. **DEFINITIONS**

A. Terry Stop: A brief, minimally intrusive seizure of a subject based upon articulable reasonable suspicion in order to investigate possible criminal activity. The stop can apply to people as well as vehicles. The subject of a Terry stop is not free to leave. A Terry stop is a seizure under both the state and federal constitutions. (See Terry v. Ohio, 392 U.S. 1 (1968)).

1. **PROCEDURE**
2. *Hiibel v. Sixth Judicial District Court of Nevada*, 542 U.S. 177 (2004)
3. A Terry stop in the United States allows the police to briefly detain a person based on [reasonable suspicion](https://en.m.wikipedia.org/wiki/Reasonable_suspicion) of involvement in criminal activity.
4. Reasonable suspicion is a [legal standard of proof](https://en.m.wikipedia.org/wiki/Legal_burden_of_proof) in [United States law](https://en.m.wikipedia.org/wiki/Law_of_the_United_States) that is less than [probable cause](https://en.m.wikipedia.org/wiki/Probable_cause), the legal standard for [arrests](https://en.m.wikipedia.org/wiki/Arrest) and [warrants](https://en.m.wikipedia.org/wiki/Warrant_%28law%29), but more than an *"inchoate and unparticularized suspicion or 'hunch'";(1) it must be based on "specific and articulable facts", "taken together with rational inferences from those facts",(2) and the suspicion must be associated with the specific individual.”*
5. The *Hiibel* decision was narrow in that it applied only to states that have [stop and identify statutes](https://en.m.wikipedia.org/wiki/Stop_and_identify_statutes). Consequently, individuals in states without such statutes cannot be lawfully arrested solely for refusing to identify themselves during a Terry stop.
6. A corresponding state statute on the same subject is found in the CODE of Alabama §15-5-30, which authorizes an Alabama law enforcement officer to “*stop any person abroad in a public place who he reasonably suspects is (1)* ***committing****, (2)* ***has committed*** *or (3) is* ***about to commit*** *a felony or other public offense.”*
	* 1. To legally demand an individual identify themselves there must be a reasonable suspicion that the individual is involved in criminal activity of some sort. Officers must keep in mind that reasonable suspicion is more than a hunch that a crime has or is about to be committed but does not require as much evidence as probable cause.
		2. Reasonable suspicion is the standard in these circumstances. When met, under §15-5-30, officers can only demand the following: (1) **Name**, (2) **Address** and (3) **Explanation of their actions**.
7. Officers may request but cannot demand any type of physical identification or photo ID to include a driver’s license. Alabama law does not require a citizen to have or produce a driver’s license, photo ID, or any other type of physical identification except under very limited circumstances (driving, purchasing alcohol, etc.).
8. In these instances, failure to produce an Identification Card or other document does not constitute a charge of Obstructing Governmental Operations under CODE of Alabama §13A-10-2 absent *“by means of intimidation, physical force or interference or by any other independently unlawful act, he: (1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function; or (2) Intentionally prevents a public servant from performing a governmental function.”*
	* 1. *“…statements and noncompliance without more do not begin to provide facts or circumstances to support”* …an arrest. (See Roland Edger v. City of Huntsville, USCA 21-14396 (2023)).

APPROVED: CHIEF OF POLICE DATE

I HAVE READ AND UNDERSTAND THIS ORDER

SIGNATURE OF OFFICER DATE

***DISCLAIMER***

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