

CIRCULAR



DISTRICT OF COLUMBIA

Topic
**Arrest Guidelines for Failing to Make
One's Identity Known to Police**

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Related to
**GO-SPT-303.1 (Traffic Enforcement), GO-
OPS-304.10 (Police-Citizen Contacts, Stops
and Frisks)**

This Circular is to remind members of the parameters for when an arrest can be made for failing to make one's identity known to police.

The United States Supreme Court recently ruled in *Hiibel v. Sixth Judicial District Court of Nevada* that a request by a police officer for an individual to provide a name during a Terry Stop does not violate the 4th and 5th Amendment to the Constitution. In *Hiibel v. Sixth Judicial District Court of Nevada*, a Nevada statute was upheld that requires a citizen to provide his/her name to a law enforcement officer. The *Hiibel* decision arose from an incident where law enforcement officers responded to a call reporting that a man assaulted a female. Once on the scene, officers found *Hiibel* who was apparently intoxicated and standing outside a parked truck with a woman inside. The officers asked for his identification 11 times and he repeatedly refused to identify himself to the officers, which resulted in his subsequent arrest. He was charged with the misdemeanor crime of "willfully resisting, delaying, or obstructing a public officer in discharging or attempting to discharge any legal duty of his office."

While the court has ruled that the state had an important government interest in obtaining the name of the suspect, **this ruling will have little impact for Metropolitan Police Department operations because the District does not have a law sufficiently similar to the Nevada statute.** The Metropolitan Police Department has incorporated the District's law by including specific directions to police officers in GO-SPT-303.1 (Traffic Enforcement) and GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisk).

GO-SPT-303.1 (Traffic Enforcement) establishes policy and procedures for how MPD officers are to exercise police powers when enforcing all traffic laws and regulations pertaining to pedestrians. Part of the members responsibility is to know that a separate criminal sanction is applicable in situations where a pedestrian violator refuses or fails to inform a member of his/her true name and address, to facilitate proper issuance of an Notice of Infraction. The member should also know that pedestrian violators shall not be required to produce or display documentary evidence of identity unless the name and address furnished to the officer at the time of the stop is known to be reasonably suspected of being fictitious. In this instance, members shall caution the pedestrian that continued refusal(s) to provide correct identity could result in his/her arrest. Should an arrest be made an appropriately completed NOI shall be issued for "Failure to Make Proper Identity Known," a Superior Court charge.

GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisk) establishes that where citizens refuse, or cease to cooperate during a "contact," they must be permitted to go on their way, and the refusal to cooperate (or silence) cannot itself, be used as the basis to escalate the encounter into a "stop." Members are reminded that citizens are not required to possess, or carry with them, any means of identification, nor absent unusual circumstances, can citizens be required to account for their presence in a public place.



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