TERRY STOPS & REASONABLE SUSPICION

Investigative Stops or Detentions Require;

I. Reasonable Suspicion Requires Specific and Articulable Facts.

Under Terry, a police officer may briefly detain and question an individual if the officer has a reasonable and articulable suspicion of criminal activity. The officer must be able to point to "specific and articulable facts which, taken together with rational inferences from those facts reasonably warrant the intrusion." Terry, 392 U.S. at 21; See also State v. Tocki, 32 Wn. App. 457, 460 (1982) ("investigative stops are carefully circumscribed - the officer's suspicion must be based on specific, objective facts."). The State bears the burden of establishing a lawful basis for any Terry stop. State v. Alcantara, 79 Wn. App. 362, 365 (1995).

II. Reasonable Suspicion Must Be Individualized.

Washington courts have long required police have individualized reasonable suspicion before conducting a Terry stop. State v. Parker, 139 Wn.2d 486, 497-98 (1999). See also Sibron v. New York, 392 U.S. 40, 62 (1968) (generalized suspicion based on individual's presence in particular area cannot justify a Terry stop).

The Washington Supreme Court affirmed the principle of individualized suspicion in State v. Larson, holding that a stop based on an offense committed by one individual in a vehicle cannot be used to detain and question other occupants of that vehicle. 93 Wn.2d at 638, 641-42. See also State v. Rankin, 151 Wn.2d 689 (2004) (officer must have individualized suspicion before asking passenger in vehicle for ID).

An officer may not base reasonable suspicion to conduct a Terry stop on mere association with others involved in crime. The fact that an individual is in the company of others suspected of crime does not establish reasonable articulable suspicion. State v. Lennon, 94 Wn. App. 573, 580, review denied, 138 Wn.2d 1014 (1999). "Merely associating with a person suspected of criminal activity does not strip away the protections of the fourth amendment to the United States Constitution." State v. Broadnax, 98 Wn.2d 289, 296 (1982); See also Thompson 93 Wn.2d at 841 ("mere proximity to others independently suspected of criminal activity does not justify [a] stop."); Sibron v. New York, 392 U.S. 40, 62 (1968) ("inference that persons who talk to narcotics addicts are engaged in the criminal traffic in narcotics" is not reasonable); Brown v. Texas, 443 U.S. 47, 52 (1979) ("The fact that appellant was in a neighborhood frequented by drug users, standing alone, is not a basis for concluding that appellant himself was engaged in criminal conduct").