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The question has arisen whether law enforcement officers may detain a person for questioning about a crime which has been committed and which the person may have witnessed or otherwise have information. Absent probable cause for arrest or reasonable suspicion for an investigatory stop and detention, the answer is no, the person may not be involuntarily detained even briefly for questioning.

This question can be answered by examining the law regarding police-citizen encounters, specifically the constitutional standards for contacts, detentions, and arrests. Not all police-citizen encounters implicate the Fourth Amendment to the United States Constitution. For Fourth Amendment purposes, the issue is whether a person has been "seized," not whether there has been an "arrest," an "investigatory stop," etc., because that Amendment protects against unreasonable searches and "seizures."

A "seizure" occurs for constitutional purposes only when there is a governmental termination of freedom of movement through some means intentionally applied. The *subjective* intent of the officer is not relevant. In order for a "seizure" to have occurred, there must be either the application of physical force, however slight, or where force is absent, submission to an officer's "show of authority" to restrain the subject's liberty. In order to determine whether a particular encounter constitutes a "seizure," a court must consider all the circumstances surrounding the encounter to determine whether the police conduct would have

communicated to a reasonable person that the person "was not free to decline the officer's requests or otherwise terminate the encounter."

To summarize, there are three categories of police interaction with citizens. The first category is an arrest, for which the Fourth Amendment requires that police have probable cause to believe a person has committed or is committing a crime. The second category is an investigatory stop, which is limited to a brief, non-intrusive detention. This is also a Fourth Amendment "seizure," but the officer need only have specific and articulable facts sufficient to give rise to a reasonable suspicion that a person has committed or is committing a crime. The third category involves no restraint on the citizen's liberty and is characterized by an officer seeking the citizen's voluntary cooperation through non-coercive questioning. This is not a seizure within the meaning of the Fourth Amendment.

Therefore, a law enforcement officer does not violate the Fourth Amendment merely by approaching an individual in a public place and asking him if he is willing to answer some questions. The fact that the officer identifies himself as a police officer will not convert the encounter into a seizure requiring some level of objective justification. However, the individual may not be detained even momentarily without reasonable, objective grounds for doing so, and his refusal to listen or to answer questions does not furnish those grounds. In short, if there is no detention - no "seizure" within the meaning of the Fourth Amendment - then no constitutional rights have been infringed.