

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 6: CRIMINAL PROCEDURE

§ 6103. Authority to Arrest or Detain Without Warrant.

Arrest without a warrant is authorized in the following situations:

(a) Where a breach of the peace or other criminal offense has been committed, and the offender endeavors to escape, the offender may be arrested by virtue of an oral order of any official authorized to issue a warrant, or without that order if no such official is present.

(b) Anyone in the act of committing a criminal offense may be arrested by any person present, without a warrant.

(c) When a criminal offense has been committed, and a police officer has reasonable grounds to believe that the person to be arrested has committed it, the police officer may arrest the person without a warrant.

(d) Police officers, even in cases where it is not certain that a criminal offense has been committed, may, without a warrant, temporarily detain for examination persons who may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit a felony.

Source: 12 TTC § 61.

Commission Comment: In subsection (d), the Commission substituted “temporarily detain for examination” in place of “arrest and detain for examination.” See *Terry v. Ohio*, 392 U.S. 1 (1968).

Regarding the Commission’s substitution of “temporarily detain for examination” in place of “arrest and detain for examination” in subsection (d) above, it is important to explain that in January 1982, the Commonwealth Law Revision Commission was formed to compile, classify, and codify all laws having force and effect in the Commonwealth into a product called the “Commonwealth Code;” prior to the creation of the Commonwealth Code, the CNMI had been dependent upon the Trust Territory Code of the Pacific Islands as the primary basis of its written laws. Once this major task was completed the Commonwealth Code project was submitted to the Legislature for enactment. On December 23, 1983, Public Law 3-90 (H.B. No. 351) officially created and sanctioned the Commonwealth Code. Public Law 3-90 provided that the Commonwealth Code shall take force on or after January 1, 1984; the Commonwealth Code took effect on January 1, 1984.

As part of the original Commonwealth Code project, 12 TTC § 61 was codified as 6 CMC § 6103. The subject codification substitution found in 6 CMC § 6103(d), also known as the CNMI’s “Terry Stop” equivalent, was done when the subject section was codified by the first Commonwealth Law Revision Commission prior to January 1, 1984. The *Terry v. Ohio*, 392 U.S. 1, decision was rendered in 1968. On December 12, 1983, Public Law 3-84 (H.B. No. 350) explicitly repealed particular sections of the Trust Territory Code relating to criminal procedure and did not repeal 12 TTC § 61. More importantly, the subject codification, as it still exists today, was submitted to the legislature for enactment as part of the Commonwealth Code project and was subsequently approved by the legislature in PL 3-90 when it officially created the Common-

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wealth Code and adopted the contents therein as prima facie evidence of CNMI law come January 1, 1984.

It should be noted that in compiling later versions of the Code, in particular the most recent 2004 Code and subsequent update supplements and revisions, the current Commonwealth Law Revision Commission is ever mindful of the scope of its codification authority (1 CMC § 3806) and of the fact that the abovementioned change would not be valid today absent legislative enactment of the Code. Because it is no longer contemplated that for the Legislature to positively enact future Code revisions, any changes of the above nature would now be recommended to the Legislature for its action.