

# **INVESTIGATIVE ENCOUNTERS**



# **FTO's role in SQF Training**

**Remember the goals of the FTO program: mentor, guide, and prepare probationary officers for patrol.**

**Probationary officers must get practical experience in this area. FTOs must consistently look for appropriate opportunities for his/her PPO to gain actual experience handling street encounters and the documentation required for stops. FTOs must be able to evaluate a PPOs expertise in all 12 areas including SQF.**

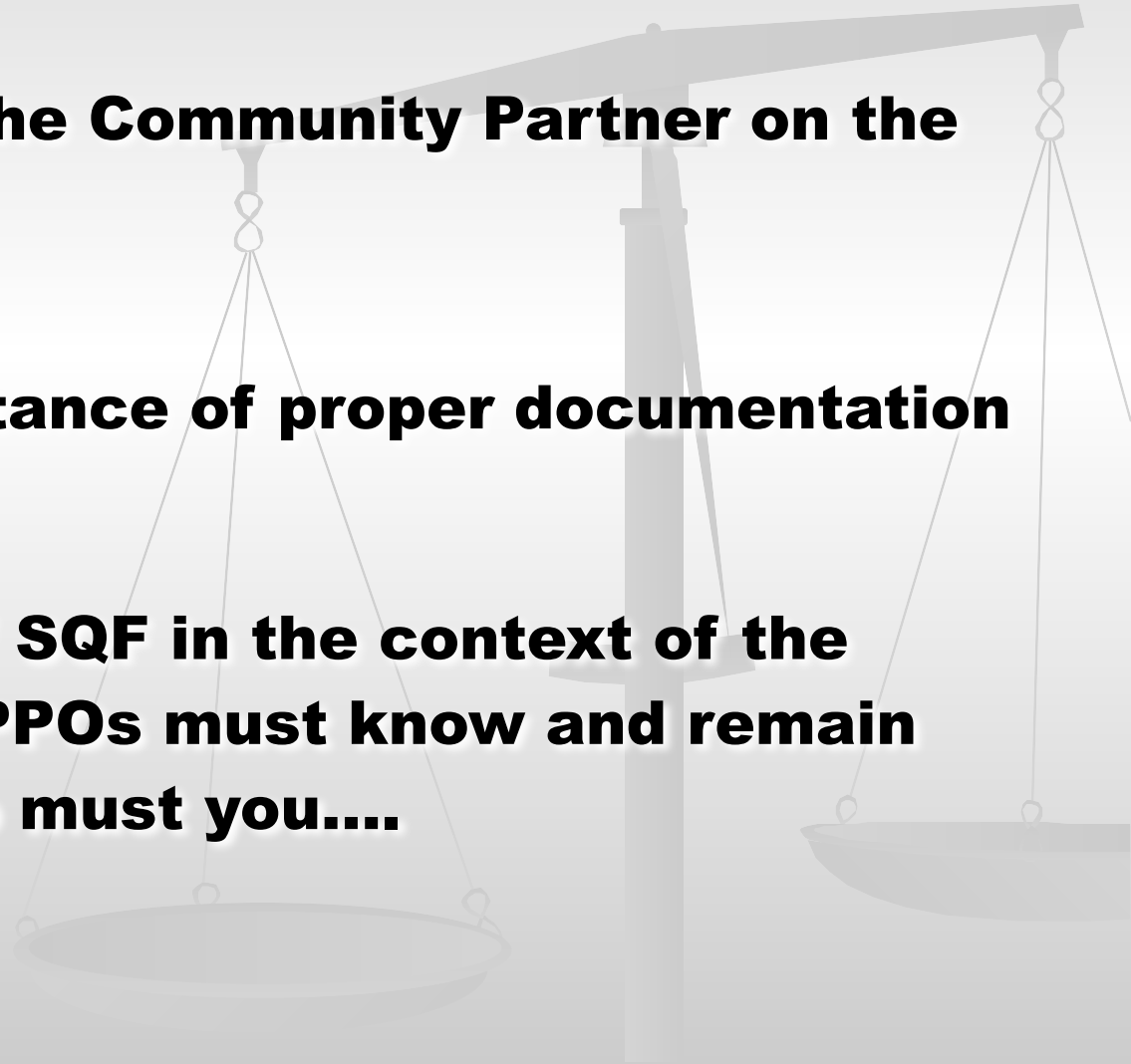
**Stress the importance of tactics and de-escalation techniques**

# **More on FTO's role in SQF Training**

**Consider engaging the Community Partner on the topic**

**Reinforce the importance of proper documentation**

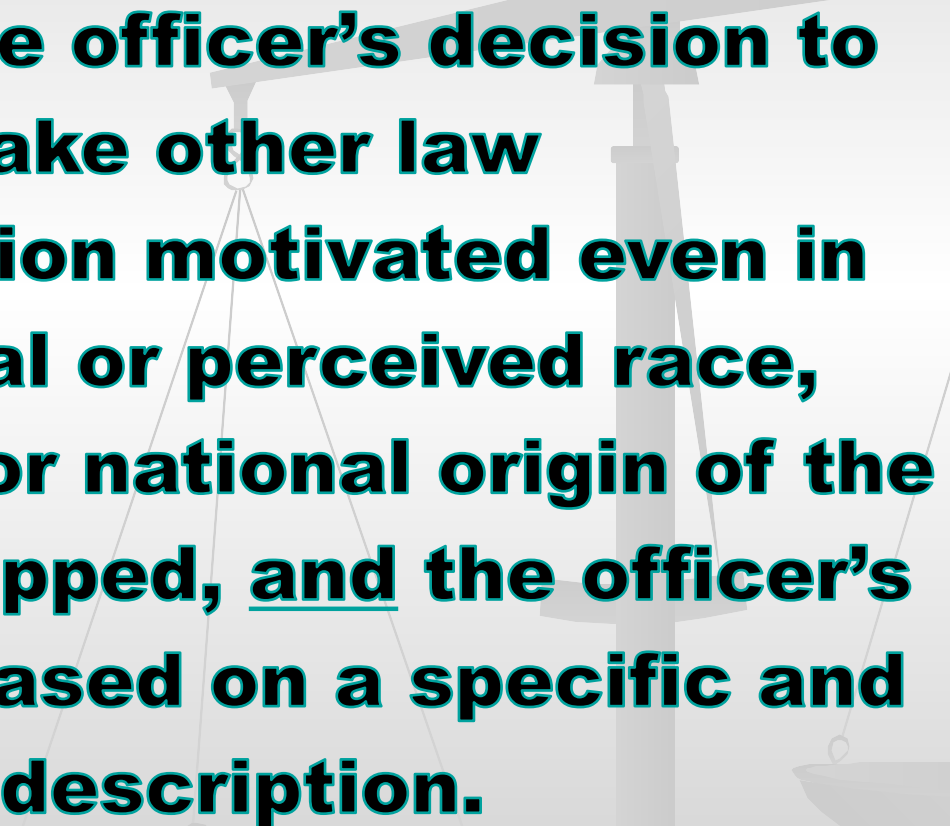
**Reinforce the law of SQF in the context of the patrol experience. PPOs must know and remain fresh on the law. So must you....**



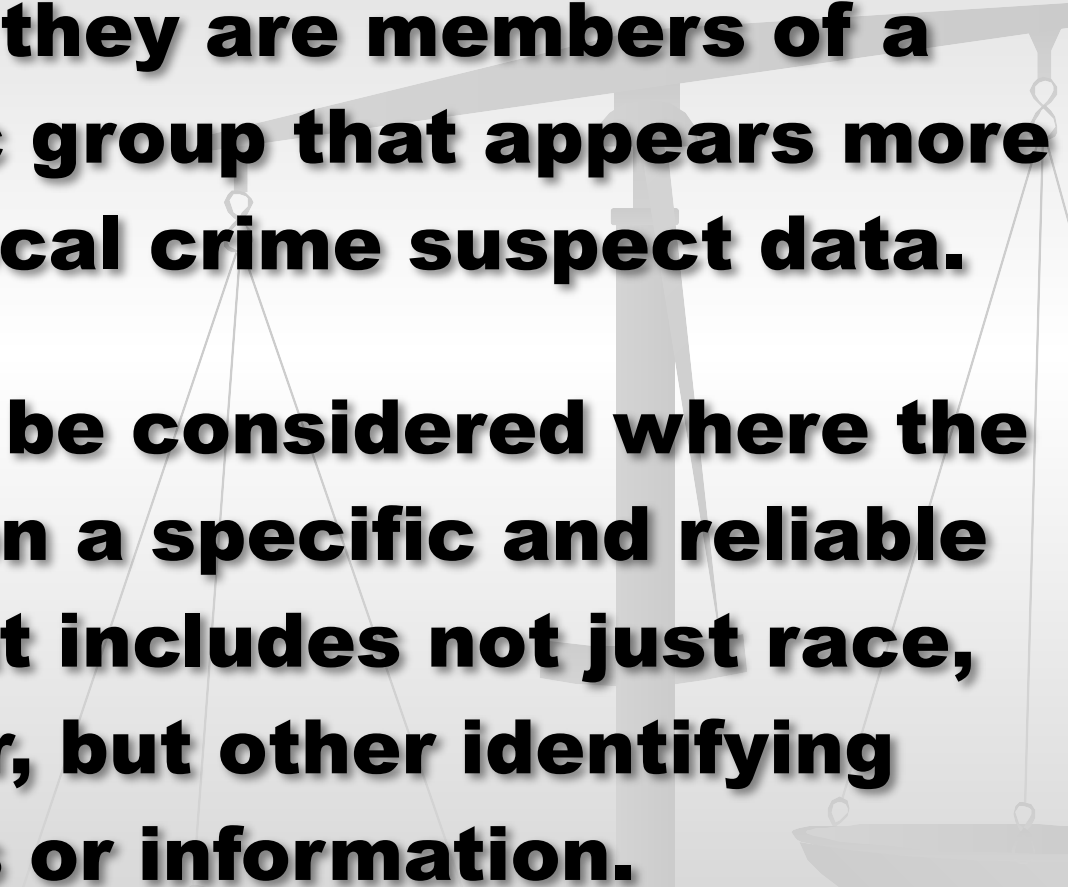
# **Racial Profiling**

## **Racial Profiling**

**Refers to a police officer's decision to make a stop or take other law enforcement action motivated even in part on the actual or perceived race, color, ethnicity, or national origin of the person being stopped, and the officer's decision is not based on a specific and reliable suspect description.**



# **Racial Profiling**

- **Individuals may not be targeted for stops because they are members of a racial or ethnic group that appears more frequently in local crime suspect data.**
  - **Race may only be considered where the stop is based on a specific and reliable description that includes not just race, age and gender, but other identifying characteristics or information.**
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# **Racial Profiling**

## **Administrative Code**

- **An officer may not make a determination to initiate law enforcement action against an individual based “on actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status. . . rather than an individual's behavior or other information or circumstances that links a person or persons to suspected unlawful activity.”**

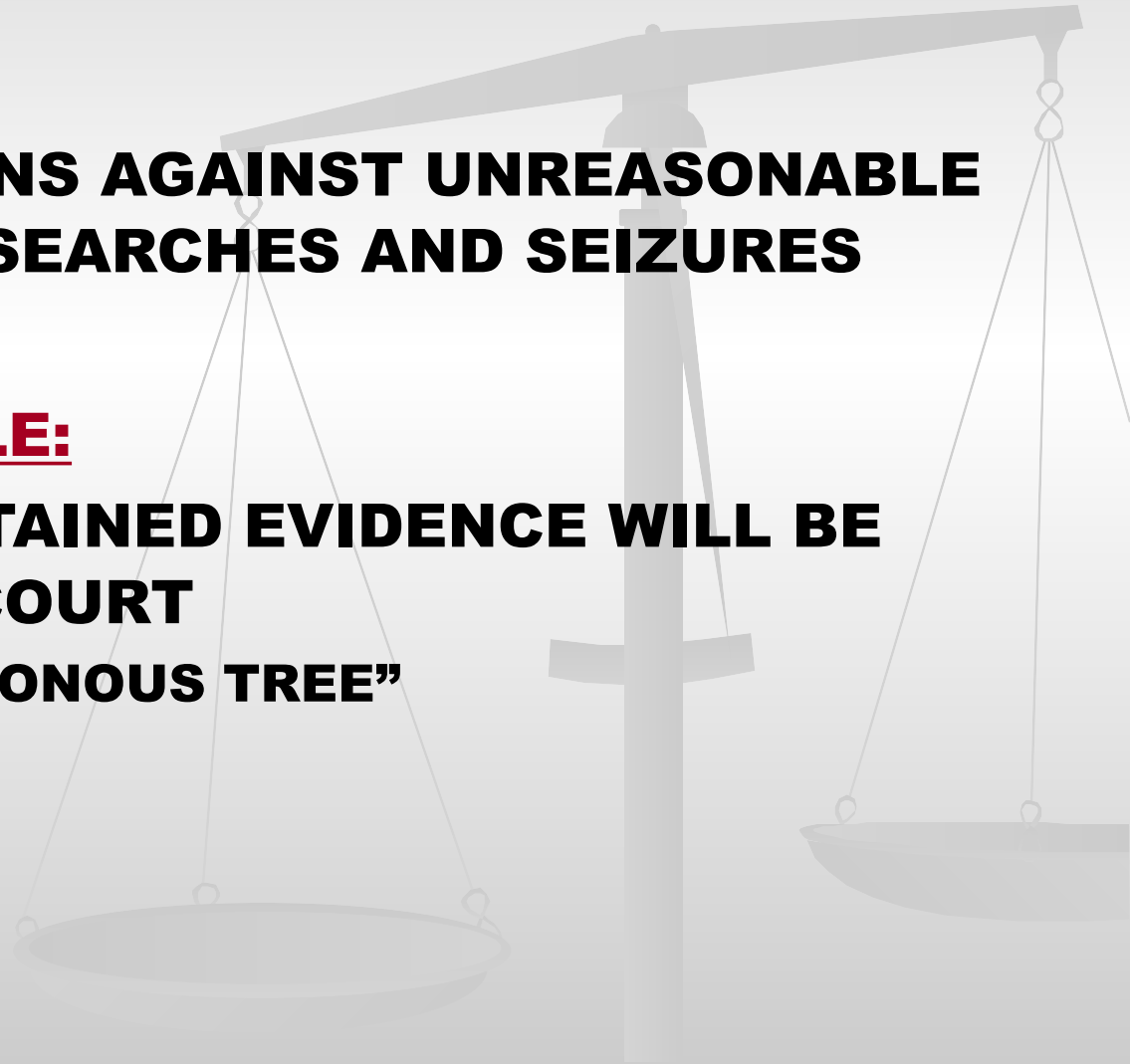
# CONSTITUTIONAL CONSIDERATIONS

## 4<sup>TH</sup> AMENDMENT:

**PROTECTS CITIZENS AGAINST UNREASONABLE  
GOVERNMENTAL SEARCHES AND SEIZURES**

## EXCLUSIONARY RULE:

**UNLAWFULLY OBTAINED EVIDENCE WILL BE  
SUPPRESSED IN COURT  
“FRUITS OF THE POISONOUS TREE”**



# **TERRY v. OHIO**

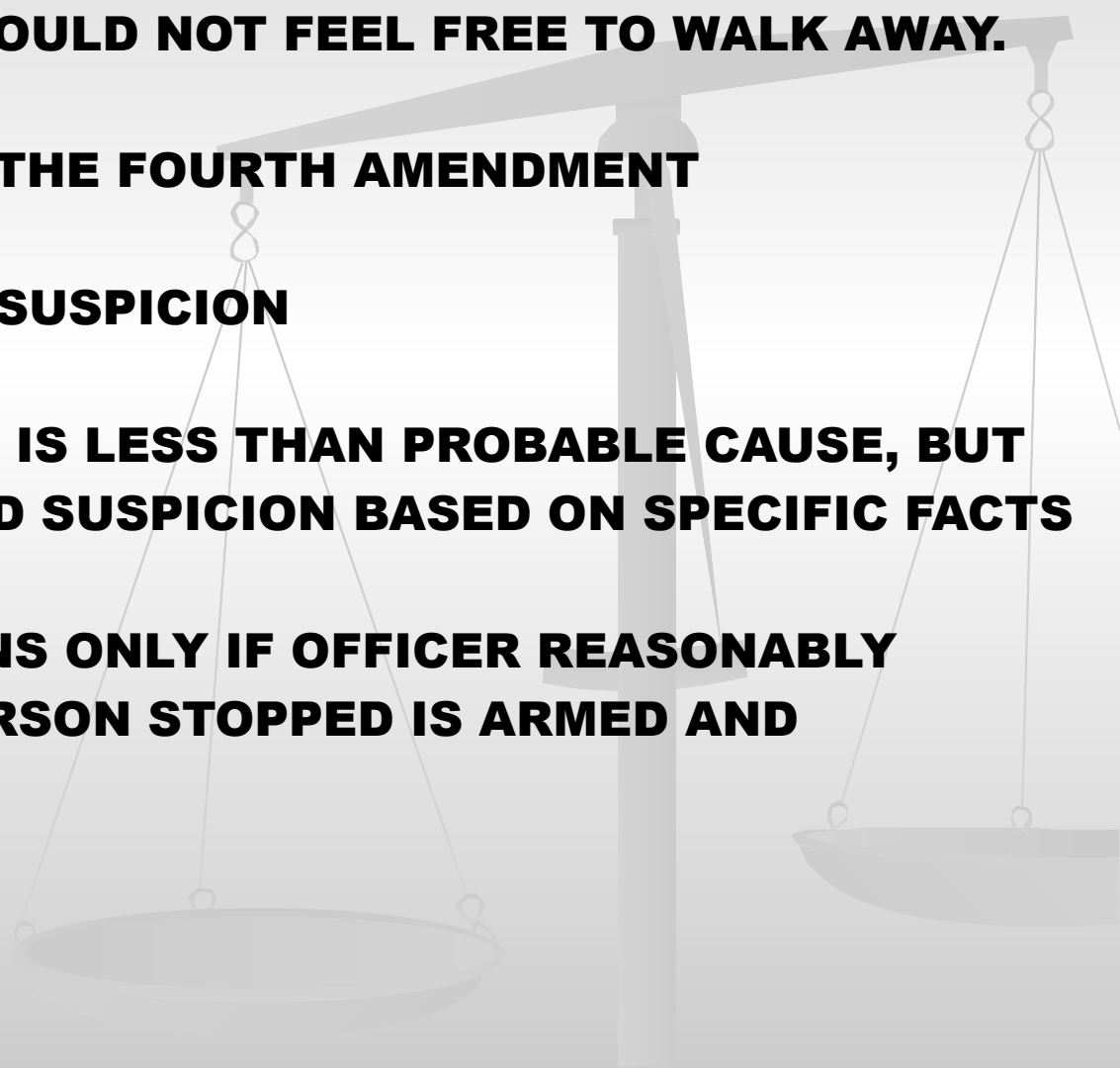
**A TERRY STOP IS AN ENCOUNTER WITH AN OFFICER WHERE A REASONABLE PERSON WOULD NOT FEEL FREE TO WALK AWAY.**

**IT IS A SEIZURE UNDER THE FOURTH AMENDMENT**

**REQUIRES REASONABLE SUSPICION**

**REASONABLE SUSPICION IS LESS THAN PROBABLE CAUSE, BUT MUST BE INDIVIDUALIZED SUSPICION BASED ON SPECIFIC FACTS**

**MAY FRISK FOR WEAPONS ONLY IF OFFICER REASONABLY SUSPECTS THAT THE PERSON STOPPED IS ARMED AND DANGEROUS**





# **PEOPLE v. DeBOUR**

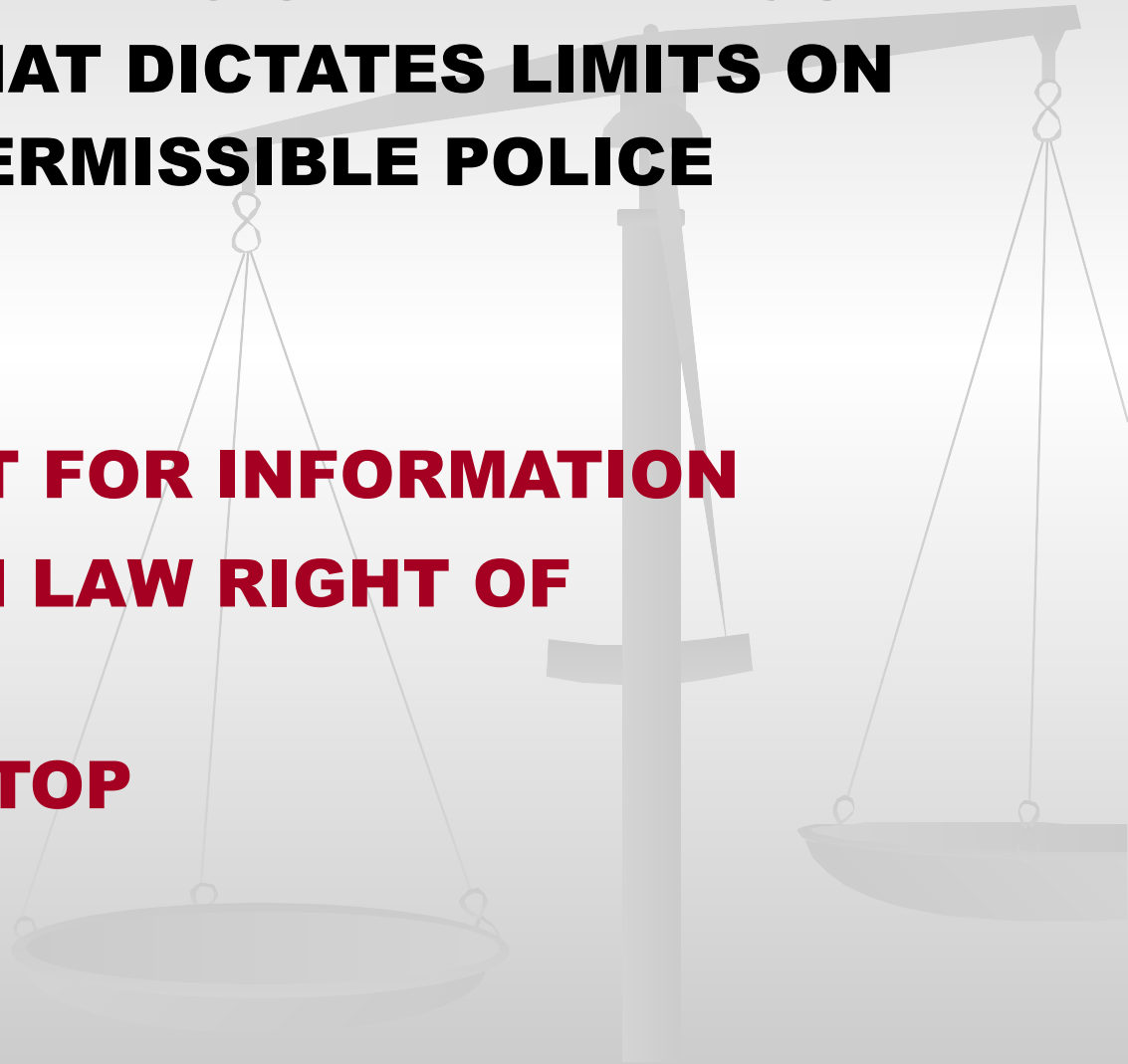
**NYS COURT OF APPEALS CREATED A FOUR TIER ANALYSIS THAT DICTATES LIMITS ON THE LEVELS OF PERMISSIBLE POLICE INTRUSION...**

**LEVEL 1: REQUEST FOR INFORMATION**

**LEVEL 2: COMMON LAW RIGHT OF INQUIRY**

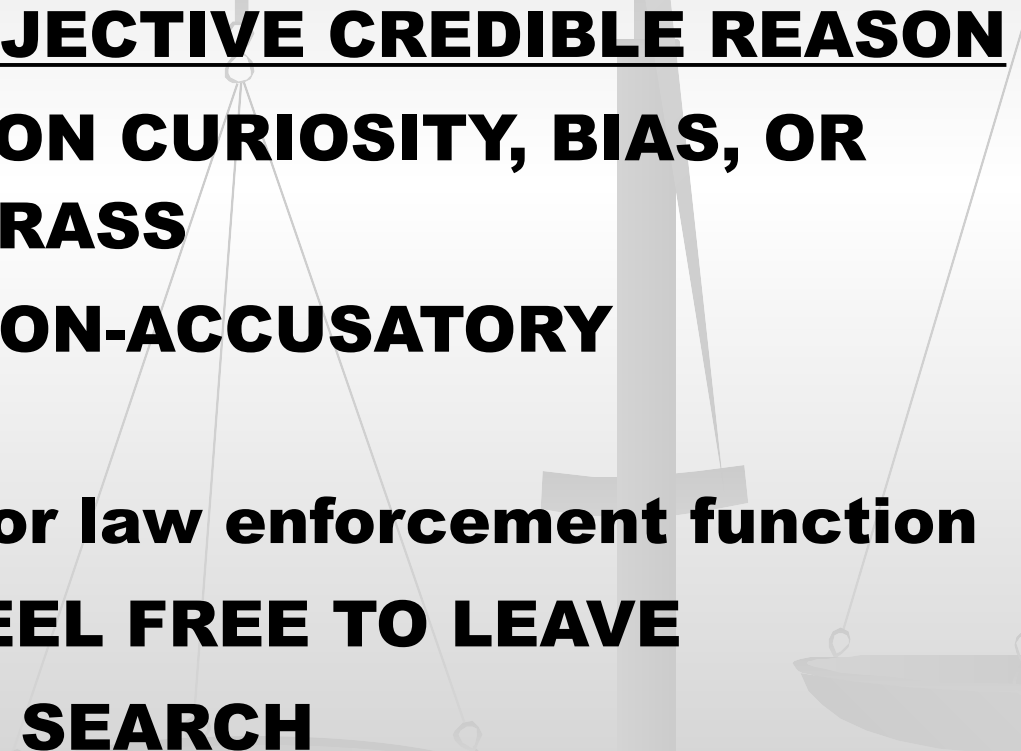
**LEVEL 3: TERRY STOP**

**LEVEL 4: ARREST**



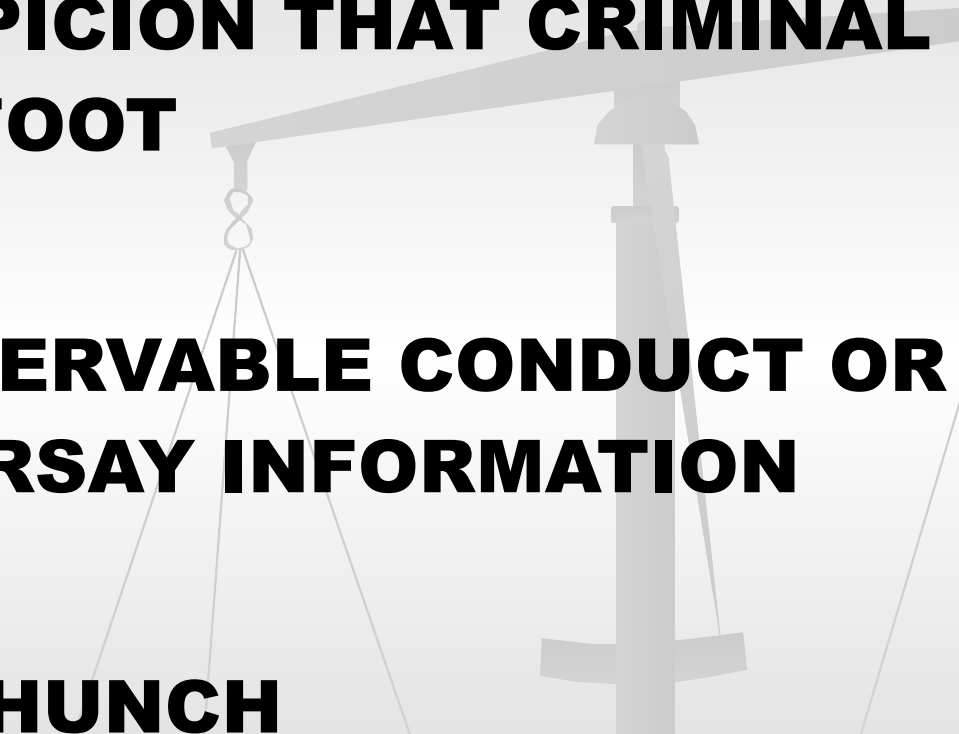
# **LEVEL 1:**

## **REQUEST FOR INFORMATION**

- **BASED ON AN OBJECTIVE CREDIBLE REASON**
  - **AND NOT BASED ON CURIOSITY, BIAS, OR INTENDED TO HARASS**
  - **MAY ONLY ASK NON-ACCUSATORY QUESTIONS**
    - **Public service or law enforcement function**
  - **PERSON MUST FEEL FREE TO LEAVE**
  - **MAY NOT ASK TO SEARCH**
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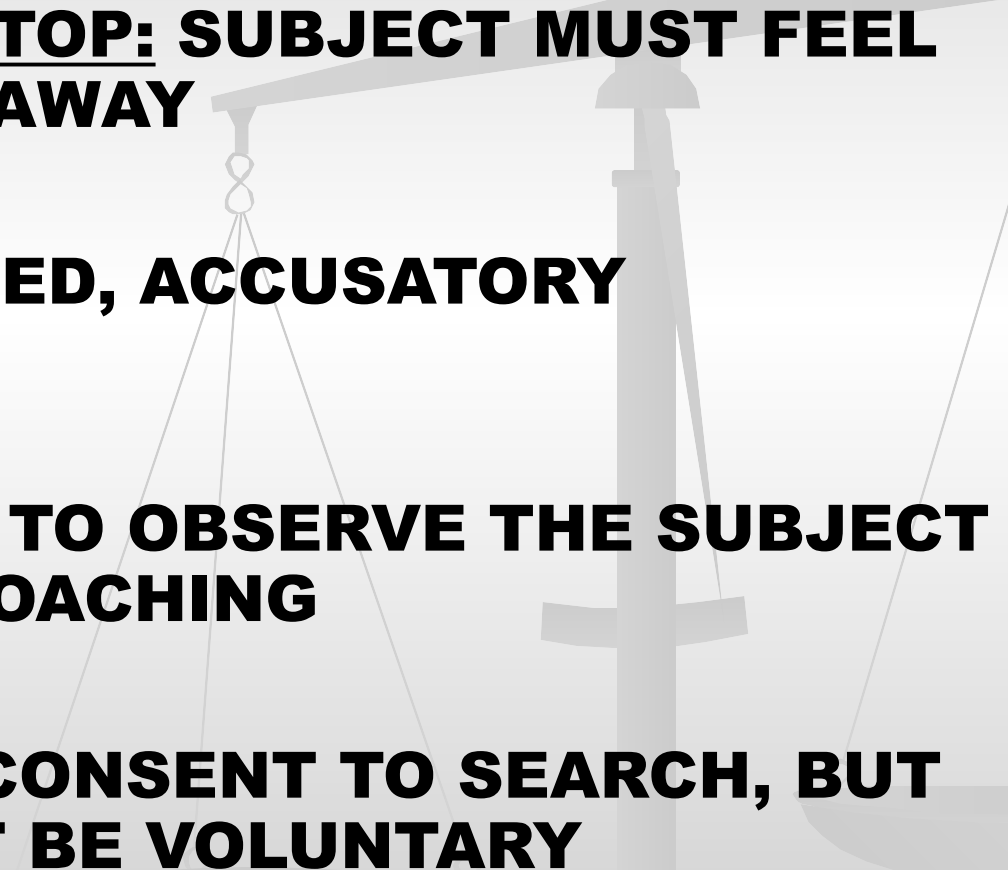
## **LEVEL 2:**

### **COMMON LAW RIGHT OF INQUIRY**

- **FOUNDED SUSPICION THAT CRIMINAL ACTIVITY IS AFOOT**
  - **BASED ON OBSERVABLE CONDUCT OR RELIABLE HEARSAY INFORMATION**
  - **MORE THAN A HUNCH**
- 

# **LEVEL 2:**

## **COMMON LAW RIGHT OF INQUIRY**

- **CANNOT BE A STOP: SUBJECT MUST FEEL FREE TO WALK AWAY**
  - **MAY ASK POINTED, ACCUSATORY QUESTIONS**
  - **MAY CONTINUE TO OBSERVE THE SUBJECT WITHOUT APPROACHING**
  - **MAY REQUEST CONSENT TO SEARCH, BUT CONSENT MUST BE VOLUNTARY**
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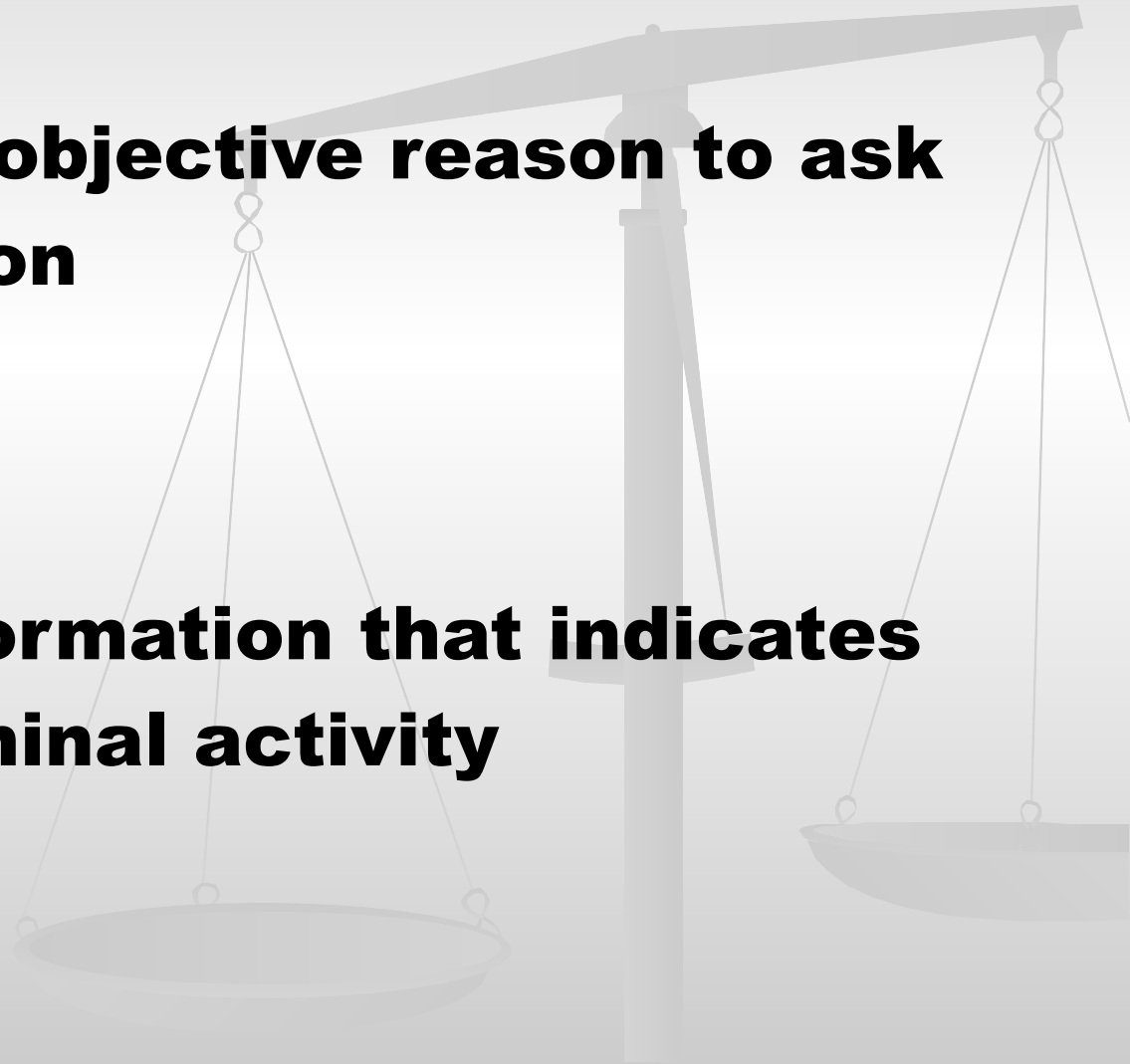
# **LEVEL 1 vs. LEVEL 2**

- **LEVEL 1**

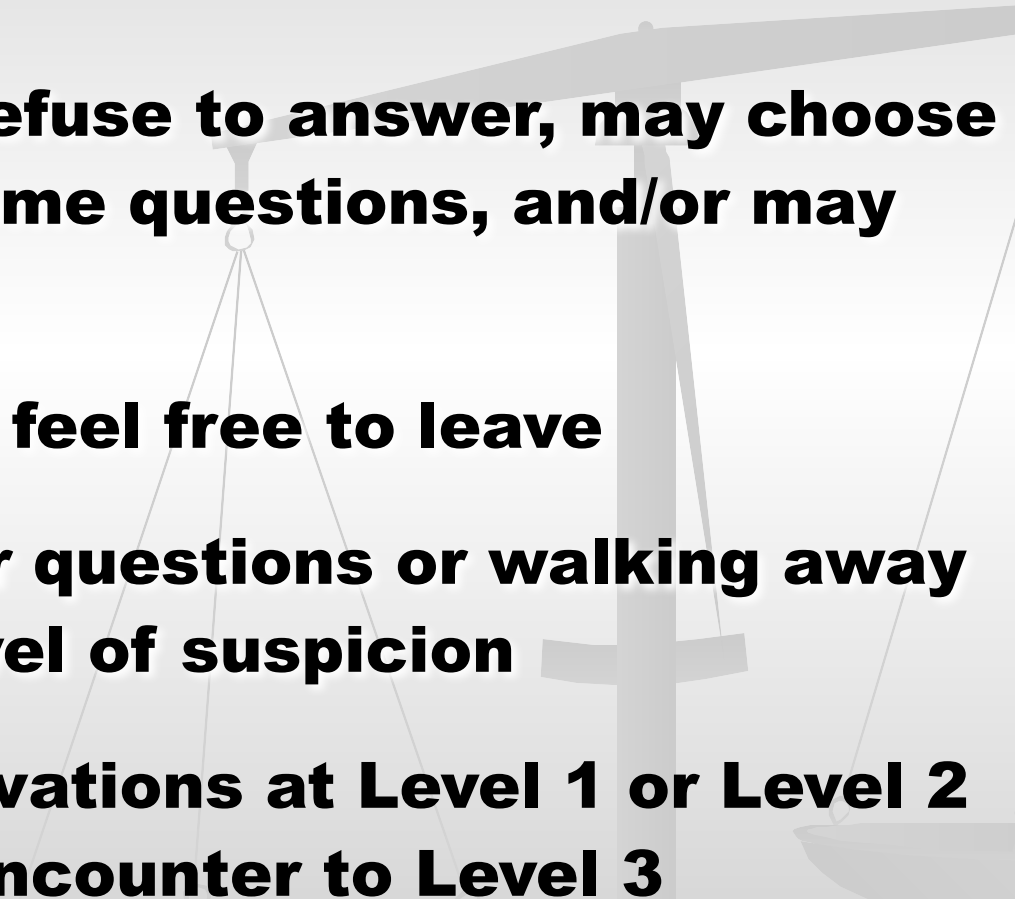
**You have an objective reason to ask for information**

- **LEVEL 2**

**You have information that indicates possible criminal activity**

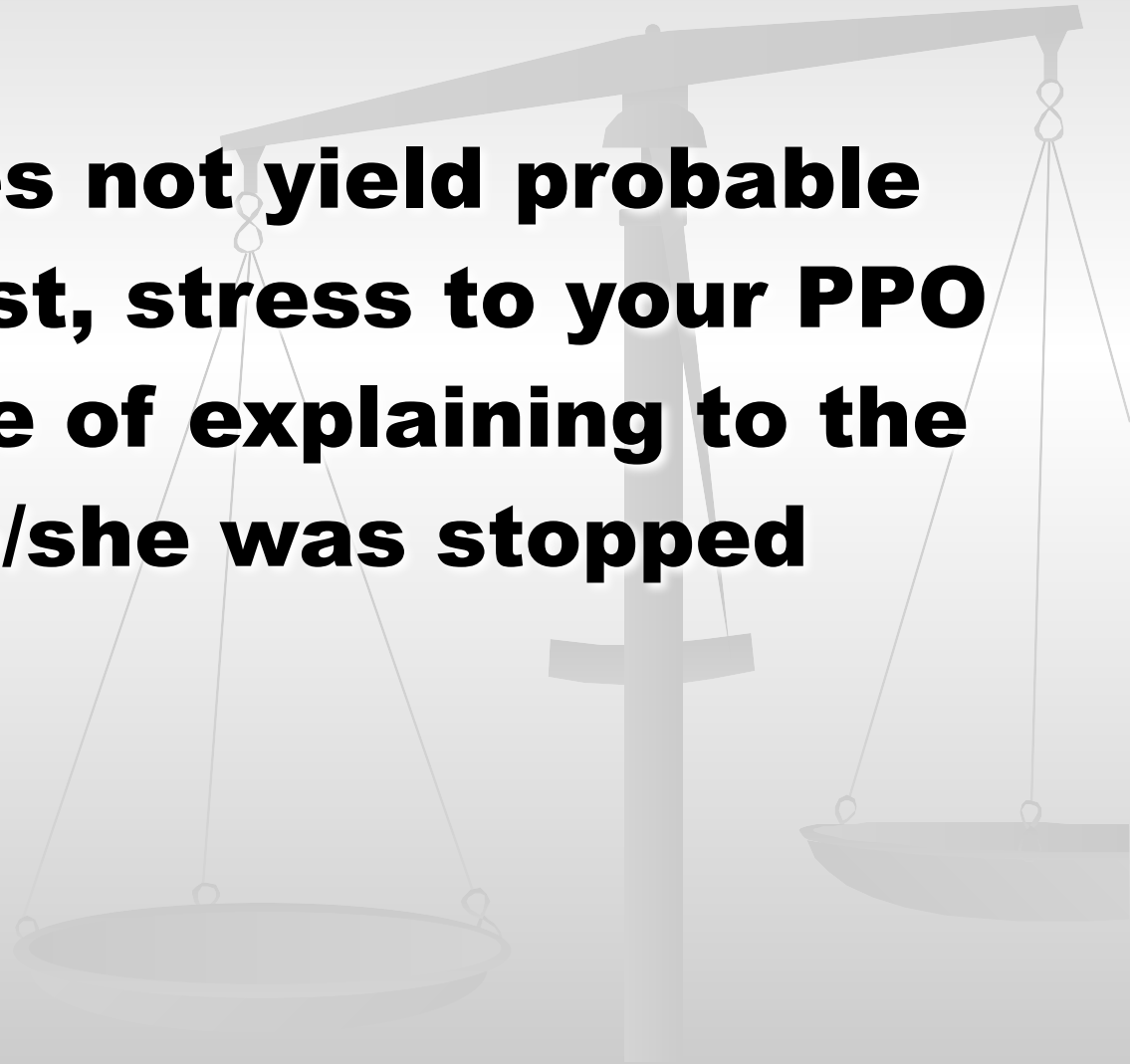


# **LEVEL 1 and LEVEL 2**

- **CANNOT use or threaten to use any level of force**
  - **Individuals may refuse to answer, may choose to answer only some questions, and/or may freely walk away**
  - **Individuals MUST feel free to leave**
  - **Refusal to answer questions or walking away does not raise level of suspicion**
  - **Events and observations at Level 1 or Level 2 can elevate the encounter to Level 3**
- 

# **EMPHASIZE ...**

**If the stop does not yield probable cause for arrest, stress to your PPO the importance of explaining to the person why he/she was stopped**



## **LEVEL 3:**

### **Also Known as TERRY STOP**

**WHENEVER A REASONABLE PERSON WOULD  
NOT FEEL FREE TO DISREGARD THE OFFICER  
AND WALK AWAY...  
THAT IS A STOP**

- **Physical force or threat of force is not necessary to constitute a stop**
- **If commands or questions would lead a reasonable person to conclude she/he is NOT free to leave, it is a stop**

**Where can you stop the person?**

- **Within Geographic Area Of Employment (Five Boroughs) on or off duty**



# **LEVEL 3 STOP**

## **USE OF FORCE:**

- **Reasonable force may be used to stop or detain**
- **The type and amount of force used must be objectively reasonable**
- **Do not handcuff unless:**
  - **Reasonably suspect the person stopped is armed and dangerous AND**
  - **There is an extraordinary condition adding an element of danger (dark alley, officer alone with multiple suspects)**

### **LEVEL 3 STOP**

**A stop is permissible only when individualized reasonable suspicion exists that the person stopped has committed, is committing or is about to commit:**

- **A felony or**
- **A Penal Law misdemeanor**

**Officer must be able to articulate specific facts justifying stop**

# **LEVEL 3 STOP**

## **WHAT IS REASONABLE SUSPICION?**

- **When the information you have is of such weight and persuasiveness that, based on your judgment and experience, it is reasonable to suspect criminal activity is afoot**
- **Must be individualized, particularized, objective, and supported by specific facts**
- **Hunches or gut feelings are not sufficient**

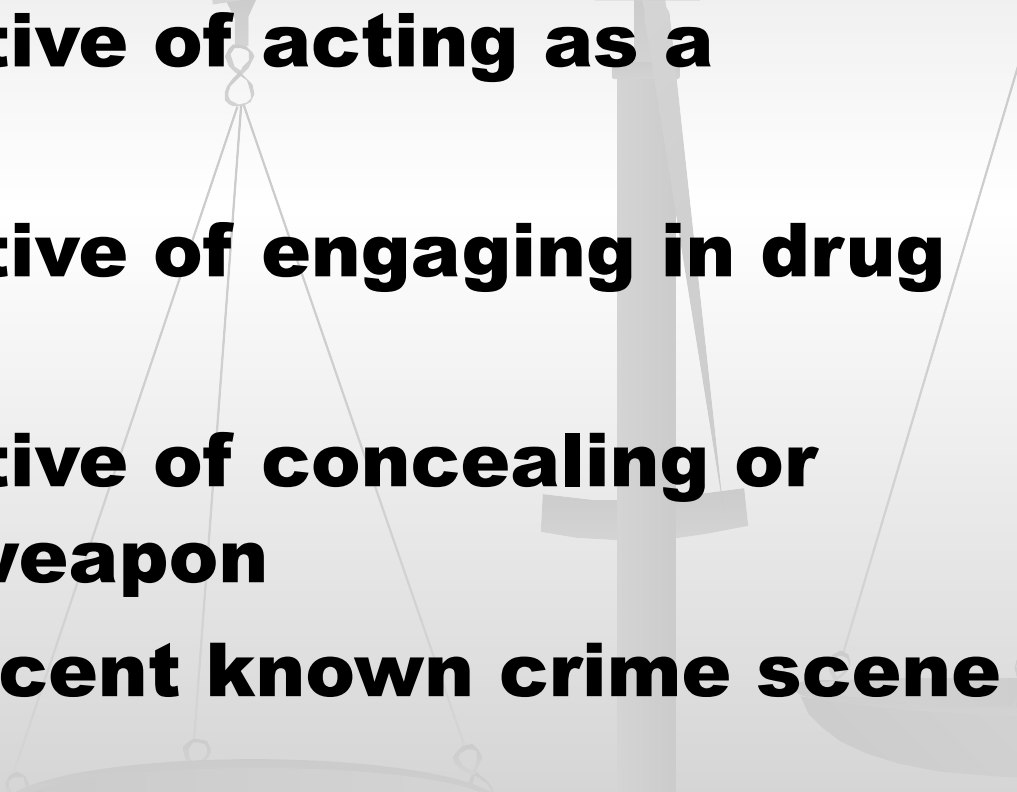
# **LEVEL 3 STOP**

## **SOME FACTORS THAT MAY BE RELEVANT TO REASONABLE SUSPICION:**

- **Information from an identified informant**
- **Matching a specific description (not just race, age, gender) of a suspect wanted in a reported crime**
- **Carrying objects in plain view used in commission of crime (e.g., slim jim, pry bar)**
- **Actions indicative of “casing” victim or location**

# **LEVEL 3 STOP**

## **SOME ADDITIONAL FACTORS THAT MAY BE RELEVANT TO REASONABLE SUSPICION:**

- **Actions indicative of acting as a lookout**
  - **Actions indicative of engaging in drug transaction**
  - **Actions indicative of concealing or possessing a weapon**
  - **Proximity to recent known crime scene location**
- 

## **LEVEL 3 STOP**

**THESE ARE ONLY FACTORS THAT MAY BE  
RELEVANT IN DETERMINING REASONABLE  
SUSPICION**

**ANY ONE FACTOR IN ISOLATION MAY NOT  
LEAD TO REASONABLE SUSPICION**

**A GENERIC CRIME SUSPECT DESCRIPTION,  
BY ITSELF, LIKE “YOUNG BLACK MALE” DOES  
NOT SUPPORT REASONABLE SUSPICION**

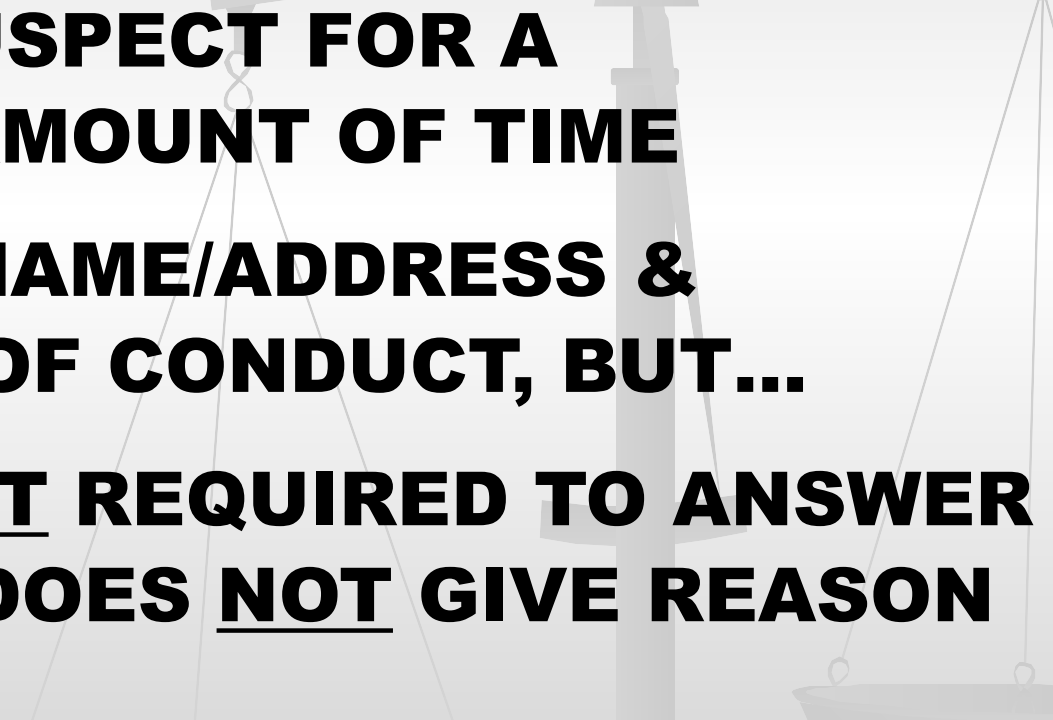
# **LEVEL 3 STOP**

## **INFORMATION FROM AN ANONYMOUS SOURCE:**

- **REASONABLE SUSPICION CANNOT BE BASED SOLELY ON ANONYMOUS INFORMATION**
  - **Except exigent circumstances, for example, bomb threats or DWI**
- **INFORMATION FROM ANONYMOUS SOURCE MUST BE CORROBORATED TO SUPPORT REASONABLE SUSPICION**
- **ANONYMOUS CALLER MAY SUPPORT LEVEL 2 “FOUNDED SUSPICION”**

# **LEVEL 3 STOP**

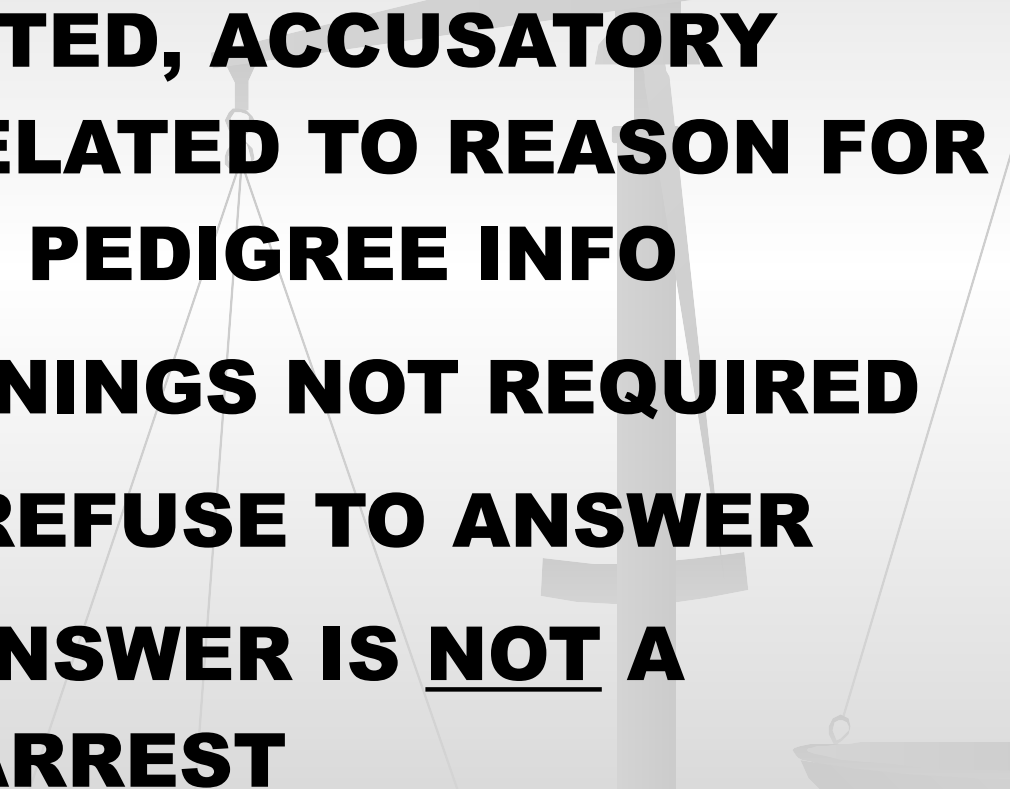
## **INTRUSION**

- **MAY DETAIN SUSPECT FOR A REASONABLE AMOUNT OF TIME**
  - **MAY ASK FOR NAME/ADDRESS & EXPLANATION OF CONDUCT, BUT...**
  - **SUSPECT IS NOT REQUIRED TO ANSWER AND REFUSAL DOES NOT GIVE REASON TO ARREST**
- 



# **LEVEL 3 STOP**

## **QUESTIONING**

- **MAY ASK POINTED, ACCUSATORY QUESTIONS RELATED TO REASON FOR THE STOP AND PEDIGREE INFO**
  - **MIRANDA WARNINGS NOT REQUIRED**
  - **PERSON MAY REFUSE TO ANSWER**
  - **REFUSAL TO ANSWER IS NOT A REASON FOR ARREST**
- 

# **LEVEL 3 STOP**

## **FRISK**

**“STOP” AND “FRISK” ARE TWO  
DIFFERENT THINGS**

**CANNOT AUTOMATICALLY FRISK  
EVERYONE WHO IS LAWFULLY  
“STOPPED”**



# **LEVEL 3 STOP**

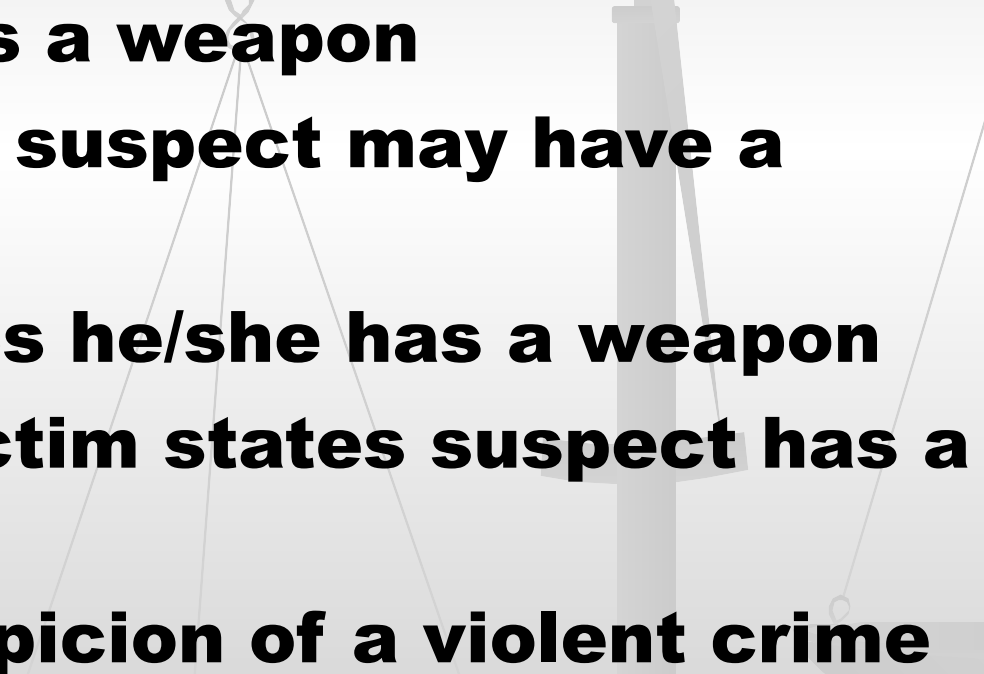
## **A FRISK**

### **FRISK IS ONLY PERMITTED WHEN:**

- **There is independent reasonable suspicion that the person is armed and dangerous**
- **Limited pat down of the outside of suspect to check for dangerous weapons**
- **Cannot be used to search for evidence of a crime, such as drugs**
- **Cannot go inside of pockets or clothing during frisk**

# **LEVEL 3 STOP**

## **ARMED AND DANGEROUS**

- **Officer observes a weapon**
  - **Knowledge that suspect may have a weapon**
    - **Suspect states he/she has a weapon**
    - **Witness or victim states suspect has a weapon**
  - **Reasonable suspicion of a violent crime**
- 

# **LEVEL 3 STOP**

## **FRISK OF A PORTABLE CONTAINER**

- **MAY ONLY FRISK PORTABLE CONTAINER THAT IS (A) WITHIN GRASP OF SUSPECT, (B) COULD CONTAIN A WEAPON, AND (C) UNLOCKED**
- **FRISK BY SQUEEZING THE CONTAINER OPEN ONLY IF YOU FEEL WEAPON**
- **IF CONTAINER IS SOLID, MAY OPEN TO DETERMINE WHETHER WEAPON IS PRESENT**

# **LEVEL 3 STOP**

## **SEARCH**

**A SEARCH IS THE PLACING OF HANDS INSIDE A POCKET OR OTHER INTERIOR PART OF CLOTHING OR POSSESSIONS**

**IT IS ONLY PERMITTED TO REMOVE OBJECT FELT DURING FRISK THAT YOU REASONABLY SUSPECT TO BE A WEAPON**

**PURPOSE IS FOR OFFICER SAFETY NOT TO DISCOVERY OTHER EVIDENCE OF CRIME**

# **LEVEL 4:**

## **ARREST**

**ARREST REQUIRES PROBABLE CAUSE**

**PROBABLE CAUSE EXISTS WHEN FACTS  
AND CIRCUMSTANCES WOULD LEAD A  
REASONABLE PERSON TO BELIEVE:**

- **AN OFFENSE HAS BEEN COMMITTED**

**AND**

- **THE PERSON TO BE ARRESTED  
COMMITTED IT**

# **STOP REPORT**

- **PREPARE ONE STOP REPORT FOR EACH PERSON STOPPED**
  - **A Stop Report IS NOT REQUIRED FOR LEVEL 1 OR LEVEL 2 ENCOUNTERS**
- **IF PERSON STOPPED REFUSES TO ID HIM/HERSELF, REQUEST PATROL SUPERVISOR TO VERIFY**
  - **Person is not to be detained while waiting for patrol supervisor**



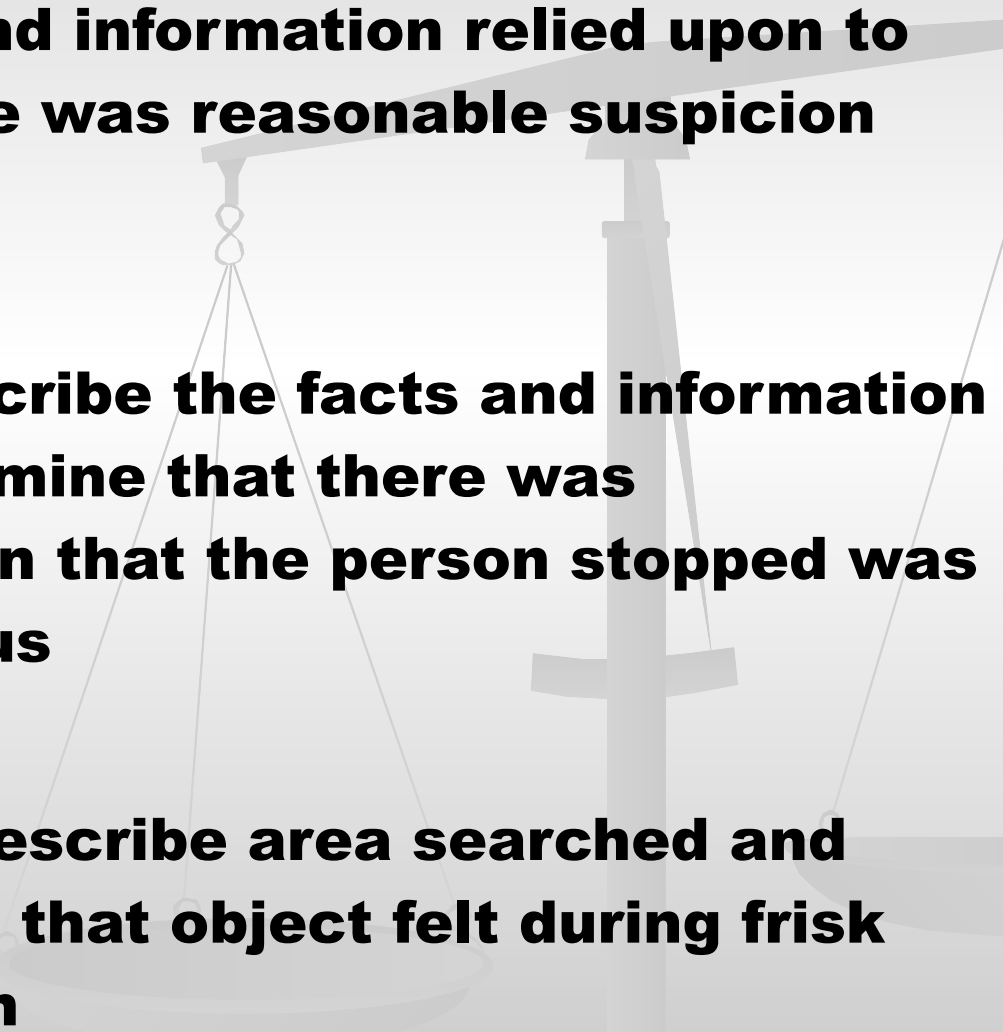
# **REQUIRED ACTIVITY LOG ENTRIES**

**DETAILED ACTIVITY LOG ENTRY MUST BE  
MADE FOR EACH PERSON STOPPED**

**MUST INCLUDE:**

- **Pedigree**
- **Time, date, and location**
- **Suspected felony/penal law misdemeanor**
- **ICAD event number**
- **Detailed description of reasons for the stop/frisk/search**

# **REQUIRED ACTIVITY LOG ENTRIES**

- **Describe all facts and information relied upon to determine that there was reasonable suspicion AND**
  - **In case of frisk, describe the facts and information relied upon to determine that there was reasonable suspicion that the person stopped was armed and dangerous**
  - **In case of search, describe area searched and basis for suspecting that object felt during frisk resembled a weapon**
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**POLICING HOUSING FACILITIES  
TAP & NYCHA BUILDINGS**

- Mere presence near, entry into, or exit out of a TAP or NYCHA building is not an objective credible reason to approach an individual.
- If an officer has an objective credible reason to approach an individual, he/she may approach the individual to ask:
  - If he or she lives in the building
  - If he or she is visiting someone in the building
  - If he or she has business in the building
- These questions can only be asked if they are related to the reason for the approach and if they are asked in a non-threatening and non-accusatory matter.

## **POLICING HOUSING FACILITIES TAP & NYCHA BUILDINGS**

**Based on answers to questions in an initial encounter, an officer may take measures to verify authority to be present in a building**

- **Inspect and return I.D.**
- **Request key to building or apartment**
- **Request apartment number where person resides or is visiting**
- **Communicate with building resident**
- **Ask person to call a resident**

**Individual may leave the building, unless officer has reasonable suspicion to detain; leaving the building, remaining silent or refusing to answer questions does not support reasonable suspicion**

# **CRIMINAL TRESPASS**

- **If unable to verify authority to be the building, officer may instruct person that he or she must leave the building, and that refusal may result in arrest for Criminal Trespass**
- **If still unable to determine authority to be in the building and person refuses to leave the building, officer make arrest, per P.G. 208-1 Law of Arrest**