

Attachment 3

REDACTED

INVESTIGATIVE ENCOUNTERS

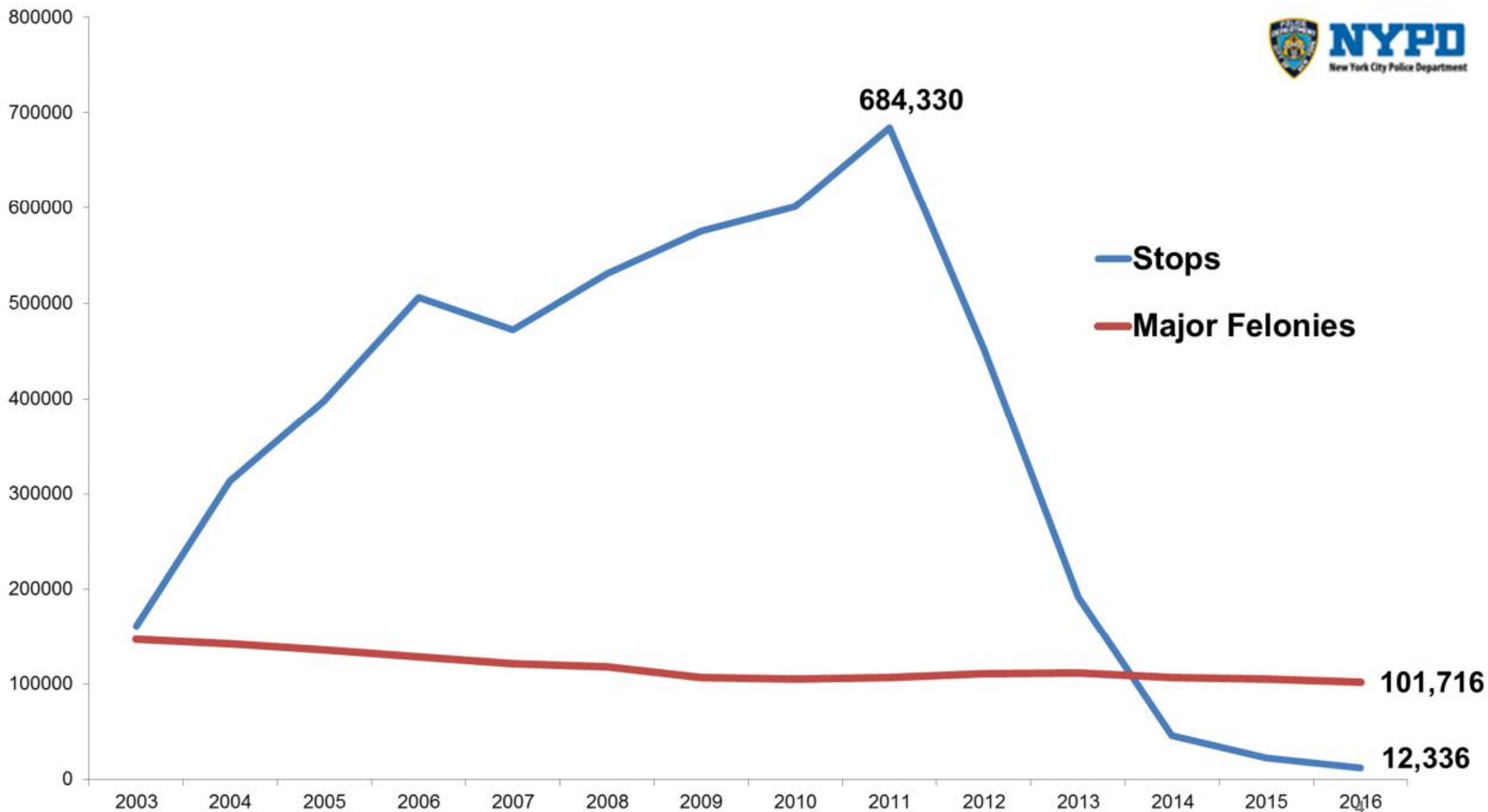


Learning Objectives:

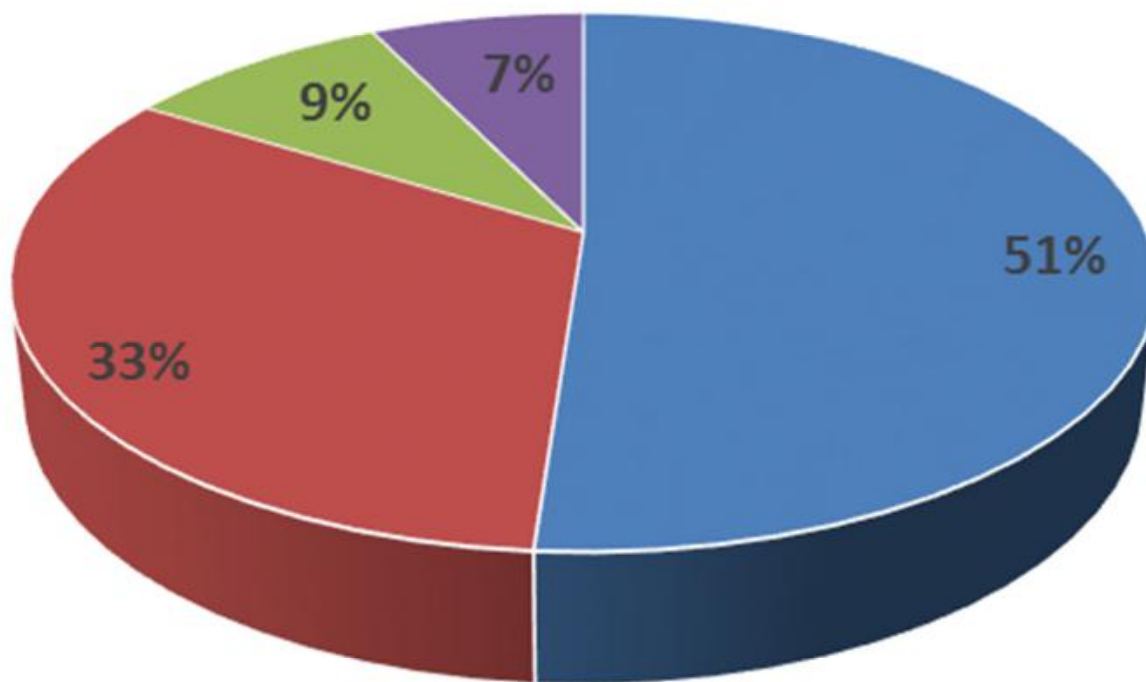


- **Understand the different levels of Investigative Encounters and the tools you have at each level**
- **Understand the documentation responsibilities, including how to prepare a good Stop Report**
- **Understand what is expected during the supervisory debriefs that follow stops**
- **Understand the proper procedures for interior patrols in TAP and NYCHA buildings**
- **Understand the appropriate and inappropriate use of race in conducting Investigative Encounters**



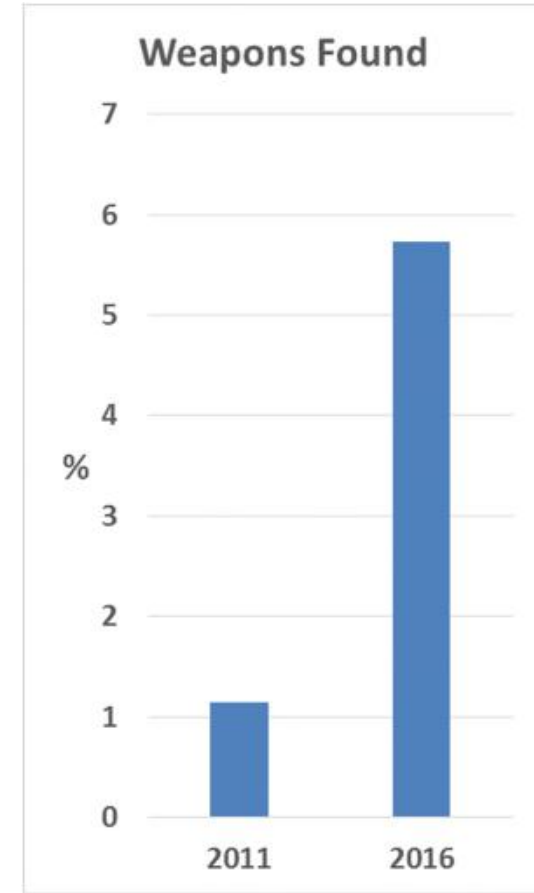
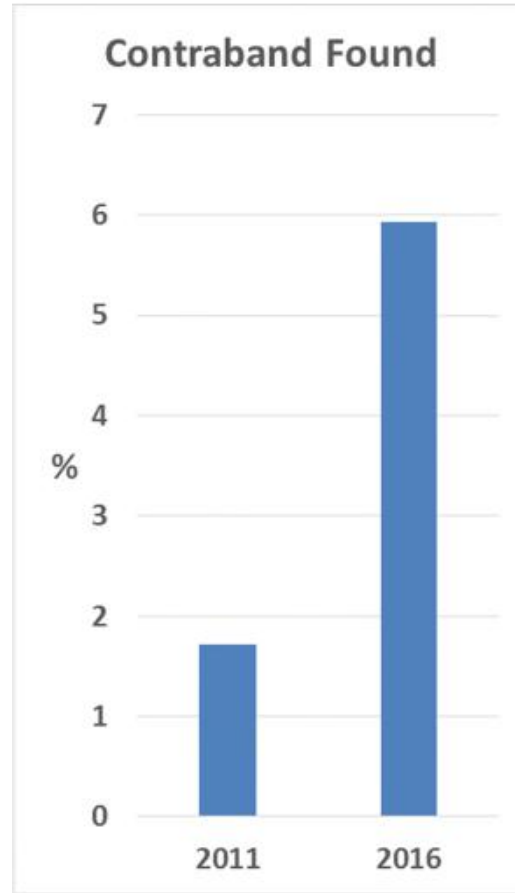
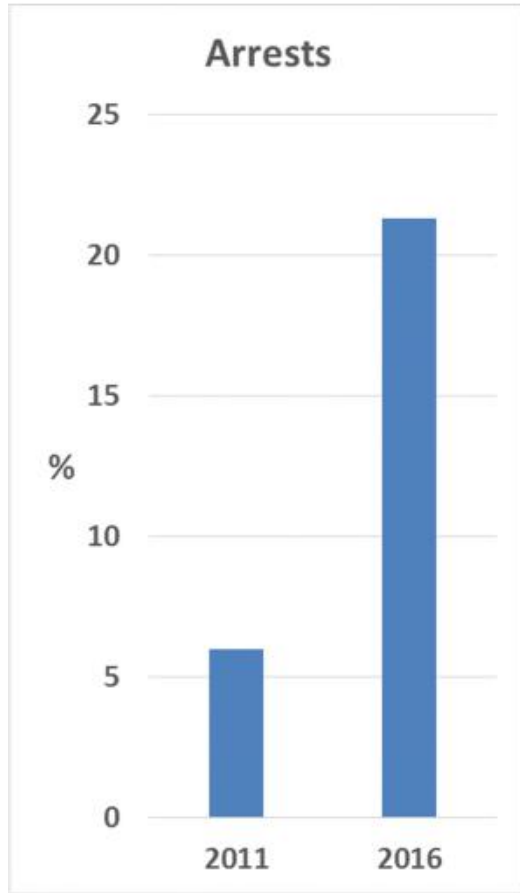


NYC Stops in 2011



■ Black ■ Latino ■ White ■ Asian/Other

Precision Policing: Stop Outcomes



#

Protect and Serve



Decline to Prosecute



Patrol Guide Procedure 212-11



PATROL GUIDE

Section: Command Operations		Procedure No: 212-11	
INVESTIGATIVE ENCOUNTERS: REQUESTS FOR INFORMATION, COMMON LAW RIGHT OF INQUIRY AND LEVEL 3 STOPS			
DATE ISSUED: 06/27/16	DATE EFFECTIVE: 06/27/16	REVISION NUMBER:	PAGE: 1 of 12

PURPOSE

To describe the types of encounters a uniformed member of the service may initiate with a member of the public during the course of his or her official duties, the level of knowledge required for each type of encounter, the scope of a police officer's authority for each type of encounter, the measures that are permissible to protect uniformed members of the service from injury while engaged in such encounters, and the procedures to be followed by a member of the service during these encounters.

SCOPE

In accordance with their oath to uphold the law, uniformed members of the service must conduct investigative encounters in a lawful and respectful manner; however, nothing in this section is intended to deter an officer from initiating appropriate inquiries and investigative encounters, including stops, or using any lawful and appropriate tactics to ensure the officer's safety during such investigative encounters. Moreover, this procedure should not be interpreted to discourage an officer from engaging in voluntary consensual conversations with members of the public. Members of the service are encouraged to develop positive relationships in the communities they serve. Such positive interactions with the community foster trust and understanding that will in turn enhance public safety and officer safety.

**The
law is
not new**

The law in the PG 212-11 isn't new, but **THIS** is:



Minor or inadvertent mistakes in documentation or isolated cases of erroneous but good-faith stops or frisks by members of the service should ordinarily be addressed through instruction and training. In most instances, instruction and training should be accomplished at the command level. The application of the law in this area can be complicated, and investigative encounters are fluid situations in which one event or observation can alter the level of suspicion or danger. A single erroneous judgment will not generally warrant referral to the Legal Bureau for retraining. However, members of the service who evince a lack of comprehension of the core concepts of the law governing this procedure should be referred to the Legal Bureau.



**SAFETY
FIRST**



NYPD
New York City Police Department



Request for Information



Common Law Right of Inquiry



Terry Stop



NYPD

New York City Police Department

FREE TO LEAVE

1

Non-accusatory Questions
Protective Measures?

OBJECTIVE CREDIBLE REASON

Request for Information

**FREE TO LEAVE
RUNNING AWAY ELEVATES**

2

Pointed Questions
Consent to Search
Protective Measures

FOUNDED SUSPICION

Common Law Right of Inquiry

STOP

3

Detain

Force?

Frisk?

Pointed Questions

Consent to Search

Protective Measures

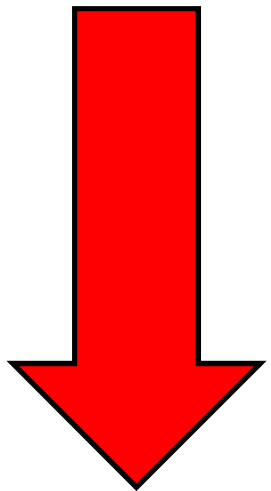


REASONABLE SUSPICION

Terry Stop



NYPD
New York City Police Department



Level 1

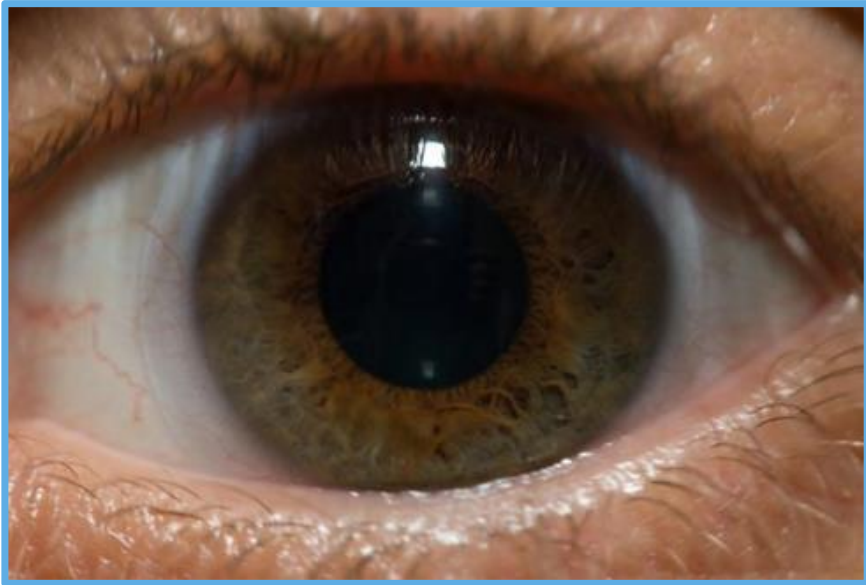


Request for Information

Objective Credible Reason



Level 1 Tools



Non-accusatory Questions

Protective Measures?

Protective Measures at Level 1?

Example: a male passes by two other men and continues to stare at them with a menacing, angry expression. You approach and ask him if there is a problem with those men. The male glares at you and begins to reach for his back pants pocket.

The use of the tool depends on a reasonable concern that your safety may be in jeopardy.

At **Level 1**, you **CAN'T**:

- ❌ **Ask pointed or accusatory questions**
- ❌ **Seek consent to search**
- ❌ **Detain the person, block his path or use or threaten to use force**
- ❌ **Direct the person to stop**

At Level 1...

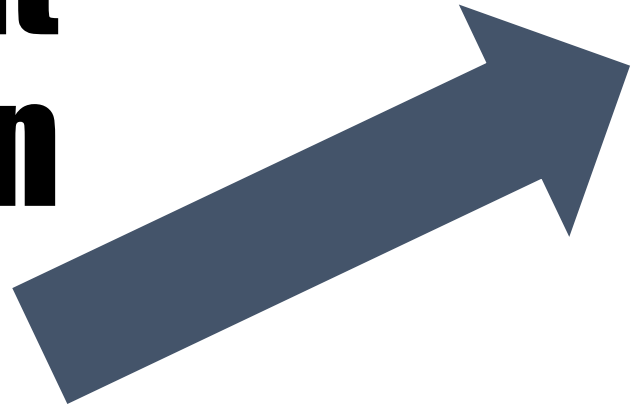
**Does the person have to
stay and answer
questions?**



**I'm in pursuit on
suspicion of....?**



**False or
Inconsistent
Answers can**



the Encounter





NYPD
New York City Police Department

FREE TO LEAVE

1

Non-accusatory Questions
Protective Measures?

2

3

OBJECTIVE CREDIBLE REASON

Request for Information

Back to our Quiz:

If you have an objective credible reason to approach someone and request information, then you are permitted to ask the person pointed questions.

TRUE

☐

FALSE

☐

IT DEPENDS

☐

I HAVE NO IDEA

☐

Back to our Quiz:

If you have an objective credible reason to approach someone and request information, then you are permitted to ask the person pointed questions.

TRUE

FALSE

IT DEPENDS

I HAVE NO IDEA

Level 2



Common Law Right Of Inquiry Founded Suspicion







NYPD

New York City Police Department

Level Two

FREE TO LEAVE

1

Non-accusatory Questions
Protective Measures?

**FREE TO LEAVE
RUNNING AWAY ELEVATES**

2

Pointed Questions
Consent to Search
Protective Measures

FOUNDED SUSPICION

Common Law Right of Inquiry

Level 1 Questions v. Level 2 Questions

- **Can I talk to you for a second?**
 - **Name, address, destination, reason for being in the area?**
 - **Did you see anything?**
 - **Did you hear shots?**
 - **What's going on?**
- **Do you have any weapons?**
 - **Do you have anything you shouldn't have?**
 - **What's in the bag?**

CONSENT to SEARCH



Consent to Search - PG 212-11

“Can I search your bag?”

“I can only search your bag if you consent, do you understand?”



NYPD
New York City Police Department


Rank/Name _____

Shield _____

Cmd. _____

Tel. _____

EEmail _____ **@nypd.org**



NYPD
New York City Police Department

Rank/Name _____

Shield _____ Cmd. _____ Tel. _____

E-Mail _____@nypd.org




NYPD
New York City Police Department

Rank/Name _____

Shield _____ Cmd. _____ Tel. _____

E-Mail _____@nypd.org

 **NYPD**
New York City Police Department

Rank/Name _____

Shield _____ Cmd. _____ Tel. _____

E-Mail _____



Protective Measures

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-11	10/05/15		6 of 12

Protective measures: Even if an officer does not have reasonable suspicion that a person is armed and dangerous, there are tactics for officer safety that an officer may use short of a frisk when the officer perceives her/his safety is at risk. These include ordering the individual to take her/his hands out of her/his pockets, put down or step away from an otherwise lawful object that could be used as a weapon, grabbing the person's hands if the circumstances suggest the person may be grabbing a weapon, or forcibly removing the person's hands from her/his pockets if the individual refuses to remove them from her/his pockets. Any lawfully possessed article that is removed/safeguarded by a member of the service during an investigative encounter should be returned to the individual at the conclusion of the encounter (unless probable cause is developed and the individual is arrested).

Protective Measures

What you can say:

- **“Show me your hands”**
- **“Put that down”**
- **“Take your hands out of your pockets”**
- **“Raise your hands”**

What you can do:

- **You can forcibly remove the person’s hands from their pockets, if they refuse to show them**
- **You can grab the person’s hands, if they reach for their pocket or waistband**



Level Two

FREE TO LEAVE

1

Non-accusatory Questions
Protective Measures?

OBJECTIVE CREDIBLE REASON
Request for Information

**FREE TO LEAVE
RUNNING AWAY ELEVATES**

2

Pointed Questions
Consent to Search
Protective Measures

FOUNDED SUSPICION
Common Law Right of Inquiry

Corroborating an ANONYMOUS CALLER BEFORE YOU GET TO THE SCENE



**Call ANI ALI
Get a NAME**



If you can't get a name:

Did caller JUST EYEWITNESS CRIMINALITY?

Get caller's basis for knowing about the crime

Does the ORIGINAL JOB convey sufficient details of observed criminality and a basis of knowledge?

Corroborating an ANONYMOUS CALLER WHEN YOU GET TO THE SCENE



**Observations that
corroborate alleged
criminality**

At **Level 2**

- + Ask pointed or accusatory questions**
- + Seek consent to search**
- ⊘ Detain the person or use or threaten to use force**
- ⊘ Direct the person to stop**

At Level 2, does the person have to:

- **Answer your questions?**
- **Produce ID?**
- **Consent to a search?**
- **Can he walk away?**
- **Does his refusal to consent or answer questions elevate the encounter?**

Back to our Quiz:

Founded suspicion is not enough to seek consent to search. In order to seek consent to search, you need at least reasonable suspicion.

TRUE

☐

FALSE

☐

IT DEPENDS

☐

I HAVE NO IDEA

☐

Back to our Quiz:

Founded suspicion is not enough to seek consent to search. In order to seek consent to search, you need at least reasonable suspicion.

TRUE

FALSE

IT DEPENDS

I HAVE NO IDEA



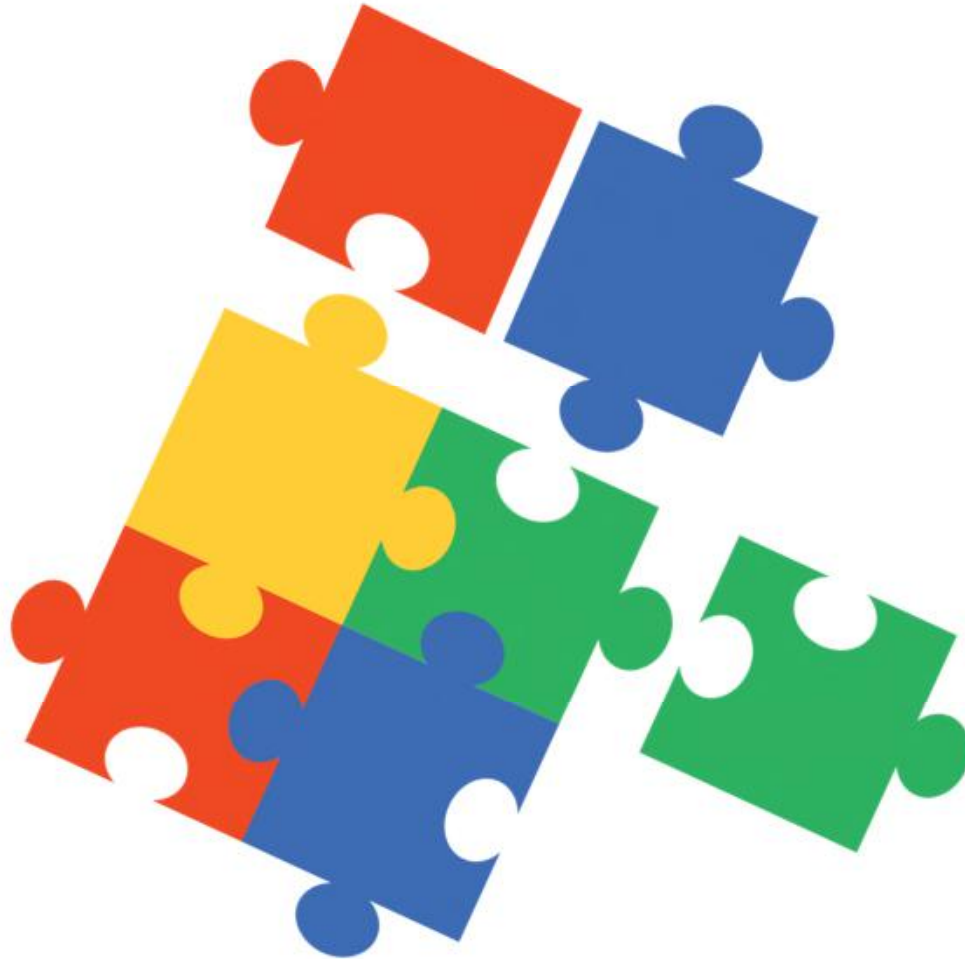
Level 3

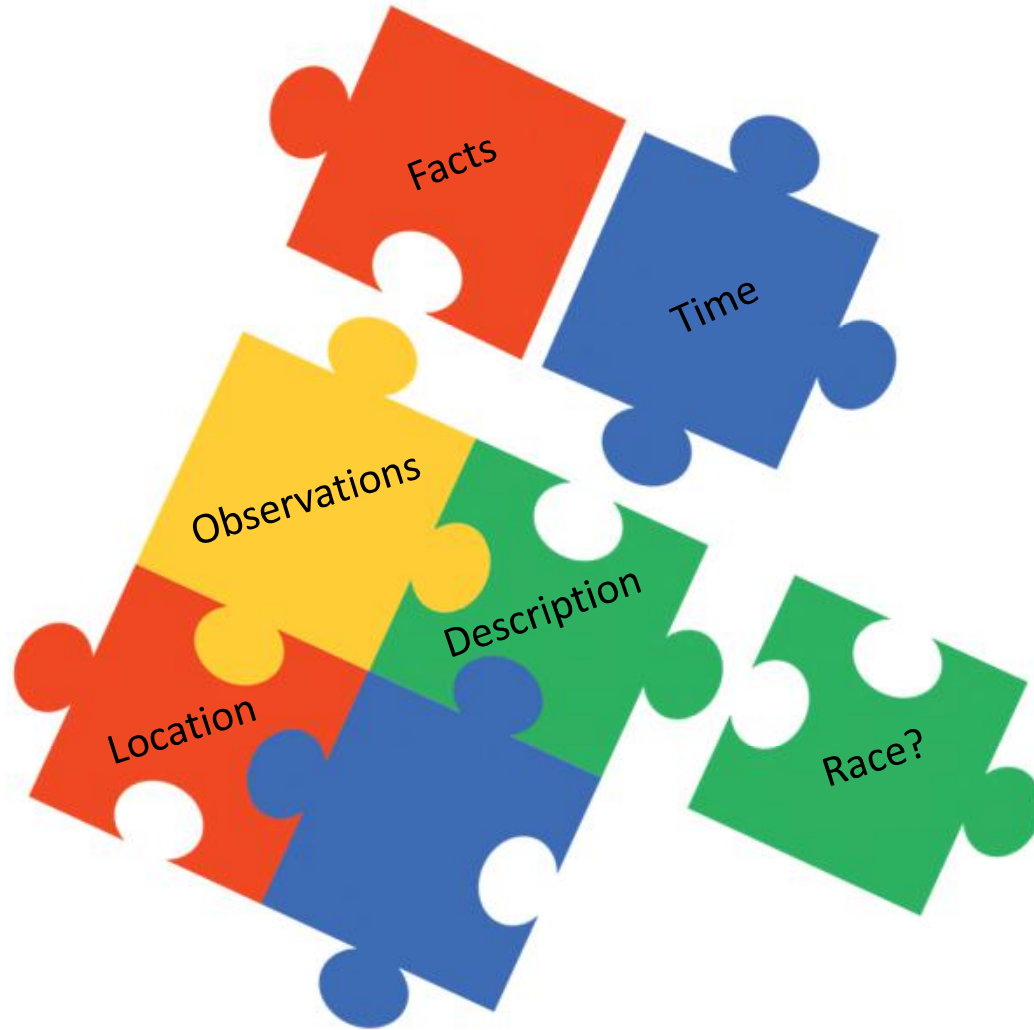
The Terry Stop

Reasonable Suspicion



Coming together?





Behavior

**Intelligence about the area
“high crime area”**

Description

Race, Age, Gender +

Location

Time

Pattern

Furtive movements

Flight

And more?

HE MATCHED THE DESCRIPTION

Race should not play any part in a decision to approach or take action unless race is part of a sufficient suspect description.



**How you talk
to people**

**One of your most
powerful tools**



NYPD
New York City Police Department

Level Three

FREE TO LEAVE

1

Non-accusatory Questions
Protective Measures?

OBJECTIVE CREDIBLE REASON

Request for Information

**FREE TO LEAVE
RUNNING AWAY ELEVATES**

2

Pointed Questions
Consent to Search
Protective Measures

FOUNDED SUSPICION

Common Law Right of Inquiry

STOP

3

Detain

Force?

Frisk?

Pointed Questions

Consent to Search

Protective Measures



REASONABLE SUSPICION

Terry Stop

STOP and
POSSIBLY FRISK

Operator: “What’s your emergency?”

Store Manager Lisa Jenkins: “We need the police - this couple was just in our store – they were here last week and ran up about \$2500 on stolen credit cards – my security guard spotted them just now and was about to approach them – they ran out of the store, we’re on 14th street – they ran down University. It’s a young man and woman in their 20’s. He is white, has brown hair, ponytail....

“I frisked for my safety...”

**“...because I believed the suspect
was armed and dangerous”**

Handcuffs during a Level 3 Stop?



**If questioning continues:
Mirandize**





What's a FRISK?

What's a SEARCH?

Remember

There is no requirement that you be absolutely certain the suspect is armed. Reasonable suspicion deals with probabilities and not hard certainties – just be able to explain your reason based on clear facts.

Back to our Quiz:

If you have reasonable suspicion that a person just committed a Grand Larceny, you can frisk the person.

TRUE

☐

FALSE

☐

IT DEPENDS

☐

I HAVE NO IDEA

☐

Back to our Quiz:

If you have reasonable suspicion that a person just committed a Grand Larceny, you can frisk the person.

TRUE

FALSE

IT DEPENDS

I HAVE NO IDEA

TAP and NYCHA Interior Patrols



There's no 4th Amendment Exception

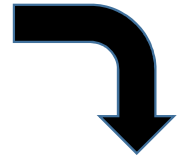
The law applies to NYCHA and TAP

**Mere
presence ≠**

**an Objective
Credible
Reason**



**FOR TAP VERTICALS, CONFIRM
CURRENT OWNERS AFFIDAVIT
(SIGNED WITHIN PAST 6
MONTHS)**



75-1

**ARE NO TRESPASSING
SIGNS PROMINENTLY
DISPLAYED?**





PG 212-60:

*Even if there is probable cause to arrest a person for trespassing, officers **may** exercise their discretion to refrain from arresting that person, and instead instruct that person to leave under appropriate circumstances.*

**TRESPASS CRIMES – FACT SHEET
AND SUPPORTING DEPOSITION**

PD 351-144 (Rev. 04-17)

NOTE: This Form Must be Completed by the Officer Who Made the Observations that Led to the Defendant's Arrest.

Defendant's Name: _____ Arrest No.: _____

I, _____, Shield No. _____, a New York City Police Officer/Detective
assigned to the _____ (*command*), deposes and swears as follows:

On _____ (*date*), at _____ (*time*), at _____ (*location*),
while on patrol inside this dwelling, an apartment building where people reside, I observed the defendant inside this
location as described below.

What about **Level 4?**



Probable Cause to Arrest



A summons is a Level 4 encounter.

Can you frisk someone you are going to summons?

ShotSpotter®



**A gun is fired;
the sound of an
explosion radiates.**

**Multiple ShotSpotter
sensors throughout
coverage area trigger.**

**Location of gunfire
is pinpointed within
seconds and
ShotSpotter gunfire
and acoustic experts
review and qualify
the data.**

**Qualified Alert quickly
sent to dispatch
center, PSAP and
mobile units for
immediate dispatch.**

**Within minutes
officers arrive to
precise gunshot
location with greater
situational awareness
and preparedness.**

Real Cases...



Contact Us

- **Risk Management Bureau**
 - **1 Police Plaza, Room 1408**
 - **646-610-7900**
- **Compliance Division**
 - **253 Broadway, 6th Floor**
 - **212-618-3100**

- **Legal Bureau, Criminal Section**
 - **1 Police Plaza, Room 1406**
 - **646-610-5400**

SURVEY MONKEY