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
Precision Policing: Stop Outcomes

![Graphs showing data comparison between 2011 and 2017 for arrests, contraband found, and weapons found.](image-url)
Protect and Serve

Decline to Prosecute
The law is not new

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

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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** 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.
Request for Information

Common Law Right of Inquiry

Terry Stop
Case 1:08-cv-01034-AT   Document 609   Filed 06/25/18   Page 99 of 216
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
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.
[Page intentionally omitted from public filing.]
Common Law Right Of Inquiry
Founded Suspicion
Level Two

1. Non-accusatory Questions
   Protective Measures?

2. Pointed Questions
   Consent to Search
   Protective Measures

FOUNDING SUSPICION
Common Law Right of Inquiry
Level 1 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?

Level 2 Questions

• Do you have any weapons?
• Do you have anything you shouldn’t have?
• What’s in the bag?
CONSENT to SEARCH
“Can I search your bag?”

“I can only search your bag if you consent, do you understand?”
EXPLAIN PURPOSE FOR THE ENCOUNTER

RIGHT TO KNOW ACT

- All Level 2 encounters
- All Level 3 Terry stops
- Frisks
- Searches
- Vehicle checkpoints
- Detectives only: questioning of witnesses and victims
Jane Longname Doe  
Police Officer  
Shield Number 94735

To request body worn camera footage, to get more information about a stop, or to submit a comment or complaint, visit:

www.nyc.gov/police-encounters

or

For Comments, Call 311
Right to Know Act Exceptions
Protective Measures

PATROL GUIDE

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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
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**Free to Leave**

1. Non-accusatory Questions
   - Protective Measures?

2. Pointed Questions
   - Consent to Search
   - Protective Measures

3. STOP
   - Detain
   - Force?
   - Frisk?
   - Pointed Questions
   - Consent to Search
   - Protective Measures

**Objective Credible Reason**

- Request for Information

**Founded Suspicion**

- Common Law Right of Inquiry

**Reasonable Suspicion**

- Terry Stop
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
ANONYMOUS

“IT’S JOE”

ENOUGH TO GET TO 3?
“There is a man with a gun outside”

NOT:

ANONYMOUS

EXCEPTIONS
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
[Page intentionally omitted from public filing.]
Level 3

The Terry Stop

Reasonable Suspicion
Level Three

1. Non-accusatory Questions
   Protective Measures?
2. Pointed Questions
   Consent to Search
   Protective Measures
3. Detain
   Force?
   Frisk?
   Pointed Questions
   Consent to Search
   Protective Measures

**Objective Credible Reason**
Request for Information

**Founded Suspicion**
Common Law Right of Inquiry

**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 curly hair, glasses, purple T-shirt ....
“I frisked for my safety…”

“...because I believed the suspect was armed and dangerous”
Handcuffs during a Level 3 Stop?

If questioning continues: Mirandize
STOP

IF YOU HAVE REASONABLE SUSPICION THAT ARMED AND DANGEROUS

BAG IN GRABBABLE AREA

YES- FRISK

CAN OPEN UNLOCKED HARD CASE

ARREST

IF YOU HAVE REASONABLE BELIEF THAT BAG CONTAINS A WEAPON OR DESTRUCTIBLE EVIDENCE

BAG IN GRABBABLE AREA

YES- SEARCH

IF NOT, INVENTORY OR WARRANT ONLY
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.
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 □
[Page intentionally omitted from public filing.]
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
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)

ARE NO TRESPASSING SIGNS PROMINENTLY DISPLAYED?
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?
Real Cases . . .
Contact Us

- Risk Management Bureau
  - 1 Police Plaza, Room 1408
  - 646-610-7900
  - rmbsqfquestions@nypd.org

- Compliance Division
  - 253 Broadway, 6th Floor
  - 212-618-3100

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