



NYPD 2015 FIELD TRAINING PROGRAM GUIDE

Field training is the bridge between the theoretical and academic training presented in the police academy and the practical application of that instruction as a professional police officer

Police Commissioner William J. Bratton

First Deputy Commissioner Benjamin B. Tucker

Chief of Department James O'Neill

NYPD
JULY
2015
FTP



PREPARED BY

TRAINING BUREAU SPECIAL PROJECTS UNIT

Lieutenant Mark Turner

Sergeant Dominic Coppola

Detective Charles Lieberman

POLICE DEPARTMENT

CITY OF NEW YORK

January 6, 2015

Memorandum for: First Deputy Commissioner
Chief of Department
Chief of Patrol
Chief of Housing
Chief of Transit

Subject: **IMPLEMENTATION OF THE FIELD TRAINING PROGRAM**

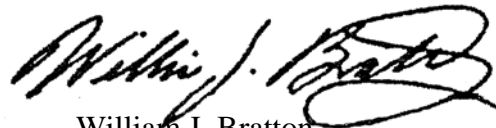
The Field Training Program has been designed to support the development of officers as they transition from their academic and tactical training to their field assignments by providing opportunities to learn the aspects of law enforcement and community service through practical application. The program is designed to foster opportunities to improve the communication, cooperation, and collaboration necessary to effectively address community concerns and enhance the safety and security of the City of New York. As part of this program, the Department has enlisted the assistance of members of the community who have volunteered to facilitate and nurture relationships between officers and members of the community that they are serving. These partners include clergy, community leaders, and representatives from businesses, non-profit groups, cultural institutions, and neighborhood associations.

The Field Training Officers (FTO's), hand-selected by the Precinct/Transit District and Police Service area Commanders, will serve as the primary trainers and evaluators for the officers assigned to each command during the six-month program. This past week the selected officers underwent two days of Field Training Officer training where they were addressed by the First Deputy Commissioner, the Chief of Department, and me. This group of volunteers should be commended for undertaking such a great responsibility and they must be placed in a position to succeed in developing these new officers into knowledgeable, community-oriented police officers.

In order to provide a well-rounded experience, PPO's will be assigned to each of the three platoons for rotating 60-day periods. It is essential that these officers be given the opportunity to acquire the enforcement, crime prevention and community policing skills listed in each of the lessons detailed in the *Field Training Program Guide*. As such, the field training officers must be routinely assigned to their field training duties with exceptions only when compelling Department needs arise. FTO's will have the dual responsibility of providing police service in their assigned areas, as well as training and monitoring the development of the new

PPO's. Likewise, the commands' executive officers must ensure that PPO's are primarily assigned to field training assignments, and that other assignments are minimized until completion of the six-month program.

Each command has between 6 to 18 PPO's and 3 to 9 FTO's, and Precinct/TD/PSA commanders have significant latitude in the daily administration of the field training program in order to meet the particular needs of each command.

A handwritten signature in black ink, appearing to read "William J. Bratton". The signature is fluid and cursive, with a large, stylized flourish at the end.

William J. Bratton
Police Commissioner

Table of Contents

Introduction	6
Span of Control	7
Cycle of Effective Feedback	8
The Benefits of Feedback.....	8
Four Basic Goals of Supervised Field Training	8
Lesson 1: Safety, Communication, Preliminary Investigations, & Stop, Question & Possibly Frisk Encounters	9
Safety	9
Communication.....	9
Language Access Line.....	10
Preliminary Investigations	10
Investigative Encounters with the Public & Issues Related to Stop, Question and Possibly Frisk.....	11
Fundamental Principles in Federal Law: Fourth Amendment, Exclusionary Rule, and <i>Terry v. Ohio</i> , 392 U.S. 1 (1968)	12
New York State Law: <i>People v. DeBour</i> (1976)	12
Street Encounters: The Four Tiers of DeBour	13
Tactics	23
Racial Profiling.....	24

Introduction

The 2015 NYPD *Field Training Program* (FTP) is designed to improve the ability of officers to transition from recruit to professional police officer. Both practitioners and academics agree that field training is one of the most important stages in the process of becoming an independent professional police officer.¹ The techniques and tactics that police officers use in the first few years of their career will have a tremendous impact on their development, which will have a long term impact on both the organization and the community served. In conjunction with the knowledge, skills and abilities of its personnel, the ability of the NYPD to fulfill its mission is contingent on public and private collaboration, cooperation, and trust. While policies, procedures, and strategies play a role, the interactions between police officers and the public are foundational to the public perception of police legitimacy. Furthermore, success in crime reduction cannot be sustained without effective community relations. Therefore, the behavior of police officers is paramount to the ability of an organization to function to reduce crime, both through rapid response to calls for assistance and through constitutional proactive engagement with the community to identify community needs and resources available to enhance safety, deter crime, and create an atmosphere in which the public and the police have a real partnership.

In the late 1980's through the early 1990's, homicides in New York City exceeded sixteen hundred a year. In recent decades, the NYPD has reduced crime through the implementation of various innovative strategies and policies, such as CompStat.² Beginning in 2003, the NYPD implemented *Operation Impact*, a targeted zone crime-reduction strategy based on *Hot Spot* policing.³ *Hot Spot* policing uses computer technology to identify statistical trends in crime, so that these areas can be targeted in an attempt to reduce specific crime problems within that area. *Operation Impact* was employed to expand upon existing crime reduction strategies; however, there were unintended consequences, both internally and externally. Internally, the quality of the training received by the recently graduated recruits was compromised, in part due to the focus on quantifiable measures of productivity by police officers, combined with supervisors' span of control exceeding the effective limit. Externally, the aggressive targeted enforcement associated with *Operation Impact* strained relationships between the police and minority communities. The NYPD's stop-and-frisk policies and practices further strained community relations and have been the subject of several lawsuits and public debate since 1999, including the case of *Floyd v. City of New York* and some related cases, which are now settled and undergoing an extensive remedial process. The 2015 FTP is designed to both maintain the historically low crime rates, while enhancing police-community relations via positive community engagement, partnership, and collaboration.

Field training is the bridge between the theoretical and practical training presented in the police academy and the application of that instruction while interacting with the public as a professional police officer. Much of field training under *Operation Impact* was undermined by an excessive span of control for supervisors, undocumented training for the police officers and supervisors, excessive focus on quantifiable measures of productivity, and insufficient oversight of the

¹Warners (2010)

²Weisburd, Mastrofski, & Greenspan, 2001; Willis, Mastrofski & Weisburd, 2003

³See Clarke & Weisburd, 1994; Eck, 1993; Hesselning, 1994; Sherman, Buerger, & Gartin, 1989; Skogan, & Frydl 2004; Smith & Purtell, 2007; Weisburd & Green, 1995; Weisburd, Maher, & Sherman 1992; Weisburd & Mazerolle, 2000; Braga, 2007; Braga & Bond, 2008; Bratton, 2009; and Braga, Papachristos & Hureau, 2012

evaluation process. In recent years, newly graduated police officers assigned to *Operation Impact*, which focused on crime reduction, were not provided with sufficient field training, oversight, and mentoring. Therefore, this FTP will focus on coaching, mentoring, guidance, constructive criticism, and positive reinforcement, while maintaining an effective span of control, which will include having an experienced, trained Field Training Officer (FTO) for every two probationary police officers (PPO). The mentorship provided by the FTO will enhance the development of PPO skills necessary to achieve the goals of both the NYPD and those we serve.

A proper field training program increases the prevalence of effective police officers, thereby reducing misconduct, corruption, and the associated financial cost. Huggins (2005) proposes that, in modern society where civil lawsuits abound, having professional well-trained police officers is critical.⁴ Field training is an integral part of developing professional police officers. Throughout the United States (US), there have been many different models employed for conducting field training for police officers. In 2003, the US Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) introduced a more contemporary approach to field training new officers, titled, *Police Training Officer Program* (PTO) also known as the *Reno Model*. The PTO program focuses on developing an officer's learning capacity, leadership abilities, and problem-solving skills. This approach contrasts with traditional field training models that over-emphasize mechanical skills and rote memory capacities. While these static skills are necessary in police work and are integral to any training program, they constitute only one set of skills needed in contemporary policing. At the core of the PTO program is the use of Problem-Based Learning (PBL), based on adult learning strategies. PBL is a learner-centered teaching method that uses problem solving as the vehicle for learning.⁵ In addition, the *San Jose Model*, established in the early 1970's, provides a good foundation for an effective FTP.

Span of Control

Span of control refers to the ratio of subordinates to a supervisor. The span of control should be kept narrow, limited to between six and ten subordinates per supervisor.⁶ Personnel levels and budgetary constraints can impact the ability to maintain an optimal span of control. The negative effects associated with an excessive span of control include tactical challenges, lost learning opportunities, and the possibility for corruption.⁷ By using experienced police officers to assist supervisors with the development of the probationary police officer, the supervisor has the assistance necessary to ensure that each officer has the resources and guidance to become an asset to the organization.

The 2015 FTP incorporates best practices identified in both the *San Jose* and *Reno* models. The selection and training of Field Training Officers (FTO), who will provide oversight, instruction, and mentoring to facilitate proper development, are integral to the success of the FTP.

⁴Huggins, 2005

⁵ COPS, US DOJ, 2010

⁶ Rainey, 2003

⁷ Schroeder & Lombardo, 2006, p. 28

Cycle of Effective Feedback

McDermott &Hulsem (2012) provide five elements in the *Cycle of Effective Feedback* (CEF), which include the following:

1. Understanding recruits and their idiosyncratic responses to feedback;
2. Presenting corrective feedback to recruits based on this understanding;
3. Reflecting on the feedback exchanged with the recruits;
4. Enacting problem solving steps to acquire the desired behavior; and
5. Engaging in follow-up assessments to evaluate desired outcomes.⁸

The Benefits of Feedback

McDermott and Hulsem (2012) further state, “[t]he benefits of feedback have long been known (e.g., Thorndike, 1913), and yet recent research has greatly refined our understanding of when and how feedback should be given to best suit particular educational goals. Regarding timing and frequency of feedback, the best learning outcomes occur when feedback comes immediately after the student’s response but not before the student is ready to make adjustments to his or her performance or understanding.⁹ Regarding the nature of feedback, as with instruction in general, it is more effective when presented in a way that relates to students’ prior knowledge.¹⁰ Perhaps the most important finding regarding the effectiveness of feedback is that the feedback must lead students to revisit the activity that led to the feedback in the first place.”¹¹

Four Basic Goals of Supervised Field Training

1. To provide a structured, standard learning experience in patrol
2. To transfer and apply classroom training to the real problems and situations of an officer’s daily patrol activities
3. To provide a mentor, guide, advisor and role model in the form of an FTO
4. To provide documented evaluation of recruit performance in order to: validate selection procedures; assist in retention/termination decisions; defend against false EEO and liability claims; determine readiness for patrol duty.¹²

In addition, supervised field training can provide the feedback necessary to effectively update the curriculum for recruits at a police academy. Furthermore, field research can ensure that police officers have the knowledge, skills and abilities expected upon completion of recruit training necessary to make a successful transition to professional police officer.

⁸ McDermott &Hulsem, 2012

⁹ Corbett & Anderson, 2001

¹⁰ NRC, 2000

¹¹ Butler &Winne, 1995

¹² Molden, 2007, Improper Use of the Training Officer Program

Lesson 1: Safety, Communication, Preliminary Investigations, & Stop, Question & Possibly Frisk Encounters

Safety

The primary concern of every police officer should always be safety: safety of the officer, safety of other personnel, and safety of the public. While most police officers focus on physical safety, officers must also be aware of the impact on their mental, psychological, and emotional well-being. The recent execution of two NYPD uniformed officers, who were sitting in a marked police vehicle in the middle of the afternoon, is a stark reminder that, among those members of the public who want to harm the police, there are individuals with the intent and capability to do so; therefore, we must always be vigilant and maintain situational awareness to reduce the opportunity for those that would attempt to harm us. Situational awareness enhances officer safety. Some examples of situational awareness include knowing your location (so that you can inform your colleagues immediately, without delay), maintaining a zone of safety between yourself and the public (maintain a zone of safety), knowing the location of cover (capable of ballistic protection), being aware of body language and facial expressions of individuals around (which may provide an early warning of intent), and being aware of nearby points of entry and exit. Police officers are encouraged to maintain necessary vigilance to improve the prevalence of assessing the level of safety at a scene, as well as safety in responding to a scene. However, officers must be wary of becoming hyper-vigilant (an officer that cannot turn down their level of vigilance, also known as hyper-arousal – indicated by being ‘jumpy’ or easily startled), which can be a sign of PTSD.¹³ Safety and situational awareness does not end upon arrival to a scene, as the environmental changes may present new safety concerns. Safety is discussed in further detail in Lesson 5.

Communication

Communication (written & verbal) is one of the most important skills for a police officer to develop. Communication will improve safety, ability to obtain voluntary compliance from the public, collect testimonial evidence, present evidence to court, and maintain a professional demeanor. Below are three barriers to effective communication:

1. Language: words can be vague; clarify statements; limited English proficiency
2. Distraction
 - a. Internal distractions: victim trauma; suspect mental illness; suspect fear of apprehension and/or punishment; officer concerns about safety of self, colleagues & public
 - b. External distractions: noise; lights (turret); people

¹³ Post-Traumatic Stress Disorder; National Institute of Mental Health; US Department of Health and Human Services; National Institute of Health; http://www.nimh.nih.gov/health/publications/post-traumatic-stress-disorder-ptsd/nimh_ptsd_booklet_38049.pdf

3. False Assumptions: never assume – whenever possible, verify all information from multiple sources (see types of evidence, under preliminary investigations)

Language Access Line

The Department language line service is useful when police officers need to communicate with a person that speaks a foreign language. A certified interpreter is available twenty-four hours a day/seven days a week via the language line and members of the service are mandated to use this resource, when necessary.

To Call the Language Line from the Station House

When Inside of the stationhouse, you can use the dual handset telephone located in every complaint room or in precinct detective squads. In addition, any phone (Department cell phone, personal phone, victim's phone, etc) can be used to access the language line by dialing (toll free) 1-866-876-7041. This service is free of charge for callers.

To Call the Language Line When on Patrol

When in the field, you can use the Department cellular telephone (available through the patrol supervisor), or any available phone by dialing (toll free) 1-866-876-7041. This service is free of charge for callers. Members should be aware that the unavailability of a telephone is not an acceptable reason for failing to obtain interpretation services.

Using the Language Line

When connected to the language access line:

- Follow the automated prompts
- Supply your tax registry number to the operator
- Supply your three digit command code to the operator

In your activity log, record:

- The telephone number the call originated from
- The date, time, location, and the type of incident
- The four digit telephonic interpretation number supplied by the operator

Preliminary Investigations

Preliminary investigations are the responsibility of the first officer on the scene, which includes identifying the *Who, What, When, Where, Why, and How* of the situation.

1. **Who = Witnesses**
 - a. Victim
 - b. Eyewitness
 - c. Alleged/Suspected Offender

2. **What = Evidence**
 - a. Physical
 - b. Testimonial
 - c. Scientific/Electronic
3. **When = Time**
 - a. Time of Occurrence
 - b. Time of Report
4. **Where = Location**
 - a. Location of Occurrence
 - b. Location of witness at time of incident
 - c. Direction of flight
5. **Why = Motivation**
 - a. Motivation = *Actus Reus* = Guilty Mind
 - b. A culpable mental state is usually necessary for proper classification (intentionally, knowingly, recklessly, or with criminal negligence)
6. **How = Method of Operation or *Modus Operandi***

There are three basic types of evidence: physical, testimonial, and scientific/electronic. Police officers should familiarize themselves with the methods available to identify, secure and collect (when appropriate) these different types of evidence. **Prioritize** the collection of evidence based on **safety** concerns (weapon) combined with **value** (relevance and strength of evidence to the case) and **vulnerability** (likelihood of environment contaminating or displacing evidence). The first consideration in the prioritization of evidence collection is safety; therefore, any weapons or dangerous objects at a scene that are open to the public (on a public street or in a public park) should immediately be secured (if the officer can do so safely without significant or unnecessary risk to the officer or the public; except in extreme cases, do not handle explosives or other hazardous material unless you have the proper training and expertise). The value of evidence is the second consideration. The officer must determine the potential value of the evidence in relation to the investigation. Finally, the officer must consider the vulnerability of the evidence, including small objects (shell casings, bullet fragments), imprints or impressions (fingerprints, footprints, tire tracks), and biological matter (body fluids – blood, saliva, semen). In addition, witnesses and electronic evidence are vulnerable, as witnesses may leave the scene before an officer can ascertain their identification and contact information. Moreover, electronic information, such as digital photographs or video, can easily be altered or deleted. However, in order to search the contents of an electronic device, the officer requires either consent or a search warrant.

Investigative Encounters with the Public & Issues Related to Stop, Question and Possibly Frisk

As will be addressed in a subsequent lesson, an officer's authority to arrest and fully search an individual arises from an officer's knowledge of criminal activity based on a standard of proof, or level of knowledge, known as *probable cause*. This section, however, reinforces the law and

procedures that govern what an officer may and may not do during the course of investigative encounters with civilians in public places when the officer is operating *unless* than probable cause.

Fundamental Principles in Federal Law: Fourth Amendment, Exclusionary Rule, and *Terry v. Ohio*, 392 U.S. 1 (1968)

- The Fourth Amendment protects the right of the public to be free from unreasonable government intrusion, which applies to searches and seizures of property from people.
- The Exclusionary Rule provides that evidence obtained by violating a defendant's Fourth Amendment rights may not be introduced by the prosecution for the purpose of providing proof of the defendant's guilt.
- In the landmark case of *Terry v. Ohio*, the U.S. Supreme Court, for the first time, addressed the issue of a seizure and a search of a suspect on less than probable cause, and found that where an officer had reasonable suspicion that a person was committing, had committed or was about to commit a crime, and that the person was presently armed and dangerous, a stop and frisk were permissible consistent with the Fourth Amendment.

New York State Law: *People v. DeBour* (1976)

Following *Terry*, New York State adopted its own standards, or guidelines, for permissible police activity during investigative encounters with citizens consistent with the Supreme Court's ruling in *Terry*. The New York State Court of Appeals' decision in *People v. DeBour* created the standard by which all investigative encounters in New York are assessed.

The case outlines four levels of police encounters and defines the amount of information an officer must have for each level. In creating the four-tiered analysis, the New York Court in *DeBour* expanded on *Terry*, which dealt with the narrow issue of a possible crime in progress, as compared to *DeBour*, which began as a simple request for information. The Court went beyond what the Supreme Court addressed in *Terry*, which held that an encounter that results in an actual "stop" or detention is entitled to Fourth Amendment protection. In New York, under *DeBour*, there are additional restrictions placed upon encounters between the police and the public in situations that do not rise to the level of a *Terry* stop. Thus, *DeBour* created a more restrictive interpretation of a police officer's authority to confront and question citizens.

Facts. At 0015 hours, two police officers assigned to a foot-post were patrolling a deserted residential street in Brooklyn when they noticed someone walking in their direction. The area was notable for a high incidence of narcotics-related activity. As the solitary figure came within 40 feet of the officers, he crossed the street. The officers followed and waited for the man to reach them. When he did, one of the officers asked him what he was doing in the neighborhood. The man, later identified as DeBour, nervously replied that he had just parked his car and was walking home. The officer then asked DeBour for identification. When DeBour answered that he had none, the officer noticed a waist-high bulge in DeBour's jacket. The officer asked DeBour to unzip his jacket and when he complied, the officer noticed a revolver in his waistband. DeBour was arrested and charged with possession of the firearm.

Question for the Court: May a police officer approach a private citizen to request information without having any concrete indication of the citizen's involvement in criminal activity?

Court's answer: Yes. Although the Court found that the officers did not have any indication of criminal activity, it held that the officers did have an objective credible reason for the initial approach. The Court explained that the circumstances were sufficient to arouse the officers' interest, and the subsequent questions were only intended to elicit information as a result of the defendant's actions and the subsequent observation of the bulge in the waistband. Thus, the intrusion was minimal and "...reasonably limited in scope and intensity..." and thereby constitutionally valid.

Analysis: The Court noted that the Fourth Amendment protects against unreasonable searches and seizures by the government. Further, the Court confirmed that any approach by police, whether it amounts to a seizure or not, is a violation of the Constitution if it is based on whim, caprice, arbitrariness, or a desire to harass. In this case, however, the Court reasoned that DeBour was not "seized" within the meaning of the Fourth Amendment, but merely approached and questioned in a non-threatening manner. DeBour's attempt to avoid the officers in a high crime area late in the evening justified the approach. Moreover, his failure to produce identification coupled with the suspicious bulge necessitated further inquiry. Thus, the police officer's actions were reasonable based on the amount of information known to them.

The Court in *DeBour* went on to establish the four-tiered analysis that dictates the permissible level of police intrusion. Although the New York State Court of Appeals agreed with the U.S. Supreme Court in *Terry* that, "...there is nothing in the Constitution which prevents a police officer from addressing questions to anyone in the streets," it cautioned that an officer must have at least an objective credible reason for intrusions that affect a person's liberty.

Street Encounters: The Four Tiers of DeBour

Simply put, *levels of knowledge* are the amounts of information that the courts have held that a police officer must have to justify certain kinds of police conduct. Typically, the more information or suspicion a police officer has about the likelihood of a person's criminal involvement, the greater the level of intrusion the courts allow, and of course, investigative encounters are fluid situations in which one event or observation can escalate the encounter from one level to another.

A police officer's authority to approach, request information, stop or frisk is based on the officer's ability to articulate a legally recognized level of knowledge or suspicion. The Levels are as follows:

- 1. Request for Information (Objective, Credible Reason)**
- 2. Common Law Right of Inquiry (Founded Suspicion of Criminal Activity)**
- 3. Terry Stop and Possible Frisk (Reasonable Suspicion of a Felony or Penal Law Misdemeanor)**
- 4. Probable Cause (Arrest)**

Level 1: Request for Information

The request for information is an encounter between a civilian and a uniformed member of the service conducted for the purpose of requesting information from the citizen. In a Level 1 encounter, an officer can approach to request information when there is “some *objective credible reason* for that interference which is not necessarily indicative of criminality.” The intrusion cannot be based on whim, caprice, curiosity, bias, or a desire to harass. **Officers may, therefore, ask only non-accusatory questions; the officer’s questions and conduct may not create the impression in a reasonable person’s mind that he or she is not free to leave.** The officer may ask for a person’s name, address and destination if those questions are related to the reason for the approach, provided those questions are asked in a **non-accusatory manner**. Identification need not be provided, except in the case of the driver of a motor vehicle. Because a Level 1 inquiry is not necessarily indicative of criminality, the police **may not ask for permission to frisk or search at this level**. Although the police are permitted to request information, **a citizen has the right not to answer the police**. The refusal, in itself, does not permit further action by police. **In fact, a citizen can walk or even run away, and, without indication of criminal activity, an officer may not pursue.** Refusing to answer questions, providing innocuous answers to questions, or walking away does not raise the level of knowledge or provide a basis to issue a summons or make an arrest, and the individual must not be detained. However, a police officer can still keep the person under surveillance as long as the officer does not significantly interfere with the person's liberty. **A UF-250 (Stop, Question, & Frisk report) is not necessary for Level 1 encounters.**

Example: Defendant was observed at 0445 hours carrying two large garbage bags filled with bulky items in a burglary prone area. These circumstances justified the officer’s initial approach for information. *People v. Williamson* (1985)

Example: The officer had an objective credible reason for speaking to the defendant, a possible witness to a kidnapping, who was observed walking away from the scene. *People v. Hopkins* (1980)

Level 2: Common Law Right of Inquiry

A Level 2 inquiry is an encounter between a civilian and a uniformed member of the service conducted for the purpose of asking the civilian pointed or accusatory questions because the police officer has a “**founded suspicion that criminal activity is afoot.**” The officer must be able to express why he or she thought that **suspicious** or **unusual activity indicative of criminality** was taking place. Courts have defined this term to mean that there is a “present indication of criminality based on **observable conduct** or **reliable hearsay** information.” It cannot be based on a hunch, or “gut feeling.” While the officer may ask all of the same questions that may be asked during a Level 1 encounter, Level 2 encounters encompass wider scope, and a more intense line of questioning is permitted because the encounter **focuses on the citizen as a possible suspect of a particular crime**. The officer’s questions can be **pointed, invasive, and accusatory** in nature and can be intended to elicit an incriminating response, but cannot cause a reasonable person to feel that he or she is not free to terminate the encounter. The officer, however, may not touch the person, display a weapon, or act in a threatening manner. Unlike a Level 1 encounter, an officer **may seek consent to frisk or search**.

Similar to a Level 1 encounter, during a Level 2 encounter an individual may refuse to answer questions, answer only some questions, or walk away, and the individual may not be detained. Moreover, the officer may not create a situation (either by words or actions) where a reasonable person would not feel free to walk away. If a confronted individual walks away without answering, the officer may not pursue without reasonable suspicion that a felony or Penal Law misdemeanor has been, is being, or is about to be committed. However, flight, combined with other specific circumstances indicating that the suspect may be engaged in criminal activity, could provide the predicate necessary to justify pursuit and a Level 3 stop. **A UF-250 (Stop, Question, & Frisk report) is not necessary for Level 2 encounters.**

Example: A radio run from an **anonymous** source furnishing a description of three men selling drugs at a particular area, combined with their observations of individuals matching the description, gave officers the right to conduct a common-law inquiry of persons matching the description from the radio run. *People v. Erazo* (1994).

Level 3: Individualized Reasonable Suspicion

The third level of permissible police intrusion is the right to **forcibly stop** a citizen. A Level 3 stop is also known as a “Terry stop.” A stop occurs any time a reasonable person would not feel free to disregard the officer and walk away. Under this level, an officer may forcibly stop and detain a person when they have **reasonable suspicion** that the person has committed, is committing, or is about to commit any **felony** or a **Penal Law misdemeanor**. The officer may detain the person for a reasonable amount of time in order to confirm or dispel the officer’s suspicion.

For a Level 3 stop, the officer must be able to articulate specific facts establishing justification for the stop; hunches or gut feelings are not sufficient. This is an objective standard requiring police officers to point to specific facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion on a citizen’s liberty interest. In addition, the reasonable suspicion must be individualized. That is, the officer must have grounds to reasonably suspect the particular person being stopped of criminal wrongdoing.

Facts supporting reasonable suspicion of criminality may come from various sources. Detailed information from an identified individual may provide a basis for reasonable suspicion; however, reasonable suspicion **cannot be based solely on anonymous information**. Suspicious or evasive behavior, sometimes referred to as a “furtive movement,” including “telltale” signs of a particular crime, can contribute to facts observed by the officer that lead to reasonable suspicion (however, **generally evasive behavior by itself will not establish reasonable suspicion**). Police Officers are justified in conducting a forcible stop on a person who bears a strong resemblance to a known person who is wanted for a crime. **An individual can be approached but may not be stopped merely because he meets a vague or generalized description. There must be additional information, such as a detailed description from an identified caller that includes identifying characteristics beyond just race, age, and gender.** Flight, combined with other specific circumstances indicating that the suspect may be engaged in criminal activity, can provide the predicate necessary to justify pursuit and a stop. Similar to anonymous information, **flight alone cannot serve as the basis for reasonable suspicion.** Nor can reasonable suspicion be derived solely from mere presence in a high crime area.

Example: When an individual saw a police officer, the individual pushed the bag up his sleeve, and when the officer approached, the individual secreted the bag in his pants, apparently placing it in his buttocks. This unusual behavior was highly suspicious particularly since the individual's behavior on a prior occasion had similarities to this incident, and the police accordingly had reasonable suspicion justifying a forcible stop and detention. *People v. Lynah* (2008).

Example: A police officer investigating a reported fight between two individuals with handguns was informed that the men involved had just walked into a nearby market. The police officer immediately responded to the market, at which point an individual matching the description stepped into and attempted to push past the officer. The individual moving his hands quickly toward his waistband as a police officer pulled him aside for questioning as a part of the investigation was behavior that gave the officer reasonable suspicion and formed the basis for the frisk. *People v. Curry* (2011).

Other examples of reasonable suspicion include a person looking into car windows in the middle of the night holding a wire coat hanger, a person exiting an apartment window, and a person on a fire escape at night holding a large bag.

Geographical limitation on authority to conduct a Terry Stop: An Officer may stop a person he or she *reasonably suspects* committed, was committing, or was about to commit either felony or Penal Law misdemeanor— whether the officer is on duty or off duty – provided the stop occurs in a public place located within the **geographical area** of such officer's employment (which means one of the 5 boroughs; it need not be in the borough or precinct where the officer is assigned).

Appropriate duration of a Stop: The suspect may be detained only as long as necessary to confirm or dispel your suspicion that he/she was committing, committed, or was about to commit a felony or Penal Law misdemeanor. Authority to detain the suspect ends when the tasks tied to the reason for the stop are completed or reasonably should have been completed.

Miranda exception: During a Level 3 Terry stop – and even a Level 2 encounter – an officer is permitted to ask pointed, accusatory questions related to the reason for the approach/stop. Courts have held that so long as the questioning does not go beyond the reason for the stop, *Miranda* advisements (that a person who is not free to leave has the right to be silent and to counsel) are not required. If an officer develops probable cause and places the suspect under arrest, the requirements of *Miranda* then apply.

Conducting a Frisk

A frisk is not automatically authorized during every stop. To the contrary, in order to frisk an individual who has been stopped, an officer must not only have reasonable suspicion that the person was (or was about to be) engaged in criminality (that is, be at a Level 3), and additionally, **he or she must also have reasonable suspicion that the person is armed and dangerous.**

A frisk may not be conducted for the purpose of discovering evidence or the proceeds or instrumentalities of a crime, or other contraband such as drugs. The frisk must be strictly limited to a running of the hands over the outside of a person's clothing, feeling for a weapon or dangerous instrument.

Reasonable suspicion that a person is armed and dangerous may arise from the officer's observations or the facts and circumstances of the encounter, including observing something on the person that the officer reasonably suspects is a weapon, such as a bulge in the shape of a firearm in, or near, the waistband. The mere presence of a bulge in a person's clothing, with no other basis of suspicion does not provide reasonable suspicion to frisk.

Reasonable suspicion may also arise from a statement by a witness or by the suspect himself/herself that the suspect is carrying a weapon. Furthermore, if an officer has reasonable suspicion that the subject has committed, is committing, or is about to commit a violent crime, such as murder, assault, kidnapping, rape, robbery, or burglary, the officer may conduct a frisk to determine if the person is armed with a weapon (in such a case, an officer need not articulate independent facts of a weapon, only facts regarding a violent crime).

If an officer reasonably suspects that an object felt in a suspect's clothing during a frisk is a weapon or he/she is not sure what it is, the officer may take appropriate and necessary action to examine the object and protect himself or herself. This includes removing the object from the clothing of the stopped person. **If an officer feels something in the suspect's clothing that is clearly not a weapon, the officer may not search for or remove that item.** If the officer feels something and does not know what it is but it is clearly not a weapon, he may not search for or remove it.

Frisk of Portable container: An officer may not "frisk" or search a person's bag or other item of personal property unless the officer has reasonable suspicion that the person is armed and dangerous and the bag or item of personal property could contain a weapon and is within the person's reach. If the bag or item is soft, the officer may frisk by squeezing the container, and may open it only if he or she feels what he or she believes may be a weapon. If the container is solid and unlocked, the officer may open it to determine whether it contains a weapon. Note that the procedures outlined in this subsection do not apply to "checkpoint" type searches in subway stations.

Consent to search: During a Terry stop/Level 3 encounter, an officer may ask for consent to search, but *may not compel* a person to submit to a search of their person or belongings (absent reasonable suspicion that the person is armed and dangerous, which would justify a frisk and possibly a search). The consent, if given, must be provided voluntarily.

Documentation

**UF 250 Stop, Question and Frisk Report Worksheet
Activity Logs
"What is a Stop?" Tear-off Cards**

The **UF 250 Stop, Question and Frisk Report Worksheet** is prepared only when an officer has conducted a **Level 3** investigative encounter (Terry stop) with a civilian in which a reasonable civilian would not feel free to leave and where the officer did not already have probable cause to arrest the civilian at the outset of the encounter. Should an investigative encounter start out at probable cause (for example, a complainant points out a perpetrator from a past crime), it would be incorrect to prepare an SQF Worksheet in this case. An SQF Worksheet is also not required for a Level 1 or Level 2 encounter. However, though an encounter may begin at Level 1 or

Level 2, it is possible for the encounter to become a Level 3 stop in which the civilian no longer feels free to leave. If this happens, then an SQF Worksheet is prepared. This includes preparing an SQF Worksheet when an officer has probable cause to arrest an individual that developed during the Level 3 Terry stop. A separate Stop Report must be prepared for each person stopped.

If the person stopped refuses to identify himself (and there is no reason to take summary action), check off “REFUSED” in the appropriate space of the SQF Worksheet. Allow the suspect to depart only after completing the investigation and only if the investigation does not establish probable cause to arrest the suspect. Request a patrol supervisor to respond and to confirm the refusal, review the Stop Report Worksheet, and the action taken. Do not detain the individual while awaiting arrival of patrol supervisor if the investigation is completed and there is no probable cause to arrest the person.

An Activity Log entry must be made in every situation in which a Stop Report Worksheet is prepared. All pertinent details regarding the encounter must be recorded. It is especially important for the officer to describe the specific facts that formed the basis for the officer’s reasonable suspicion for the stop, and if a frisk is conducted, the specific facts leading the officer to reasonably suspect that the person stopped was armed and dangerous.

If probable cause to arrest does not exist, the officer should release the individual immediately after completing the investigation. When an officer releases an individual, the officer should, absent exigent circumstances, provide the individual with an explanation for the stop, question and/or frisk encounter. A **“What is a Stop, Question and Frisk Encounter?” (PD344-111) tear off information card**, should be offered to the stopped individual. An officer informing a person why he or she was stopped will help dispel the perception that the stop was arbitrary, baseless, or racially motivated. It can help deescalate a situation and prevent altercations and misunderstandings from arising. Often, officers stop individuals because they match suspect descriptions or because they are acting in ways that do, in fact, look suspicious, only to learn that there is a perfectly legitimate explanation for what they were doing. The people stopped do not know why they were stopped, and unless the officer tells them, they are likely to believe that the officer’s actions were arbitrary.

Level 4: Arrest

The fourth and final level of police intrusion is the arrest stage. An arrest involves the *seizure* of a suspected criminal offender. The purpose for the arrest is to bring the suspect before the appropriate court to answer charges against the person.

TYPE OF ENCOUNTER	LEVEL OF KNOWLEDGE REQUIRED	NATURE AND EXTENT OF PERMISSIBLE QUESTIONING	AUTHORITY TO SEARCH	FORCE AND DETENTION
I. Request for Information	An objective, credible reason to approach. Suspicion of criminality is not required. However, the member of the service must be able to articulate a basis beyond mere whim and caprice.	Non-accusatory questions concerning the reason for the approach.	At this level of suspicion, there is no basis to search. A request for consent to search a bag, pocketbook, luggage, or other item of personal property is improper.	Force may not be used to detain a subject at this level of suspicion. The subject is free to walk away from the member of the service if they so desire. They need not answer questions.
II. Common-Law Inquiry	A founded suspicion that criminality is afoot. This could be triggered by false responses to questions posed during the request for information, as well as observations by the MOS.	MOS may conduct more extensive questioning. Accusatory-type (guilt-seeking) questions may be asked.	A subject may be asked to consent to the search of an item of personal property. This consent must be voluntary on the subject's part.	Force may not be used to detain a subject at this level of suspicion. The subject is free to leave if they desire. They need not answer questions.

<p>III. Stop, Question, And Possible Frisk</p>	<p>An officer has <i>individualized, reasonable suspicion that the subject is committing, has committed, or is about to commit a crime</i>. The New York State Legislature has limited the term crime, for purposes of a stop, to mean a felony or a misdemeanor in the Penal Law. (CPL § 140.50(1)). Reasonable suspicion exists when the information known to the MOS is of such weight and persuasiveness as to make the MOS reasonably suspect criminality.</p>	<p>The MOS may stop the subject, ask for his or her name and address, an explanation of conduct, and detain the person while an expeditious investigation is conducted to determine if there is probable cause to arrest the subject.</p>	<p>In addition to the consent search described above, the MOS may frisk the subject for a deadly weapon or any instrument or article readily capable of causing serious physical injury, and of a sort not ordinarily carried in public places by law-abiding persons, if the MOS reasonably suspects the person is armed and dangerous</p>	<p>A stop occurs whenever a <i>reasonable person would not feel free to disregard the officer and walk away</i>. An MOS is permitted to use reasonable force to stop and question a subject. The type and amount of physical force used must be objectively reasonable under the circumstances facing the MOS.</p>
<p>IV. Arrest</p>	<p>Probable cause to believe that (a) an offense was committed and (b) that the subject arrested committed it. Probable cause requires the existence of facts and circumstances which when viewed together would lead a reasonable person possessing the expertise of the arresting officer to conclude that an offense has been committed.</p>	<p>An MOS may engage in constitutionally permissible custodial interrogation (i.e., <i>Miranda</i> waiver must be lawfully obtained. <i>Miranda</i> waiver is not required to obtain pedigree information).</p>	<p>“Search incident to arrest” (i.e., a search of a subject conducted immediately after the arrest to secure weapons, prevent evidence destruction) “Inventory,” etc.</p>	<p>An MOS is permitted to use reasonable force to arrest and detain a subject.</p>

Tactics

Officers should remember to use proper tactics in all investigative encounters with members of the public, including conducting a stop based on reasonable suspicion. Individuals are more likely to resist and/or use force against an officer if the officer provides an opportunity. Proper tactics will reduce the perception of opportunity on the part of the suspect. If stopping more than one individual, call for assistance prior to the stop when possible. As we are the largest municipal police agency in the world, we have the resources necessary to have the tactical advantage in most encounters with the public; however, if you don't request assistance, you may be at tactical disadvantage. While there will be situations that require immediate response, most situations involving reasonable suspicion provides sufficient time to consider the environment prior to conducting the stop. As with all action, the officer should consider his or her safety paramount.

Patrolling in or Around NYCHA and TAP Housing Facilities

For current procedures and forms, Patrol Guide Sections 212-59 and 212-60 should be consulted, however, some essential points about policing in and around NYCHA developments and apartment buildings enrolled in the Trespass Affidavit Program (TAP) bear reiterating.

When on patrol in or around a NYCHA or TAP buildings, including while conducting interior or vertical patrols, an officer may approach and ask non-threatening and non-accusatory questions of a person (that is, conduct a Level 1 request for information under *DeBour*) if the member has an objective credible reason to do so. **However, mere presence in or outside a NYCHA or TAP apartment building, or merely entering or exiting such buildings, does not constitute an "objective credible reason" to approach.**

If an officer has an objective credible reason to approach an individual near or inside of a NYCHA or TAP building, the officer may approach the person(s) and ask the person non-threatening, non-accusatory questions related to the reason for the approach, provided the questions would not make a reasonable person feel he/she was not free to leave. The officer may ask the individual:

- 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

An individual who has been approached in or near a NYCHA or TAP apartment building (in a Level 1 or Level 2 encounter) should not be detained, and may refuse to answer questions, answer only some questions, and is free to leave the apartment building, unless there is reasonable suspicion to believe that the person has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (including Criminal Trespass).

Based on the answers to the questions in an initial encounter, an officer may take reasonable measures to verify a person's authority to be present in the building when such authority is in question (e.g., asking for identification, requesting the name or apartment number of the person being visited, requesting keys to the building entrance doors, etc.). If the individual refuses to explain or is unable to explain his/her presence in the building, the uniformed member may instruct the person that he or she must leave the building or be subject to arrest for trespass. The

uniformed member may then arrest the person for trespass if the person refuses to exit the building and does not establish a right to be in the building.

A person's decision to leave the building, remain silent or refuse to provide information or identification when questioned by the police does not support reasonable suspicion to stop or probable cause to arrest. Remember, a Level 3 stop occurs whenever a reasonable person would not feel free to disregard the officer and walk away.

Some factors that may contribute to "reasonable suspicion" that a person is trespassing, in addition to those factors set forth in PG 212-11, are contradictory assertions made to justify presence in the building or assertions lacking credibility made to justify presence in the building.

Racial Profiling

Racial profiling is defined as a decision to initiate police action against a person that is motivated even in part by the person's race, color, ethnicity, or national origin. In the context of stop, question and possible frisk, race may only be considered where the stop is based on a specific and reliable suspect description that includes not just race, age and gender, but other identifying characteristics or information. Individuals ***may not be targeted for stops and frisks because they are members of a racial or ethnic group that appears more frequently in local crime suspect data or in a high crime area.*** When an officer carries out a stop based on reasonable suspicion that a person fits such a description, race may be considered, just as a police officer may consider height or hair color. When a stop is not based on a specific suspect description, however, race may not be used at all as a motivation or justification for the stop.

Conducting stops in an unbiased manner fosters and strengthens relationships between police officers and members of the community, and inspires confidence in and support for policing efforts.

The prohibition against racial profiling comes from the 14th Amendment of the U.S. Constitution and Article 1, Section 11 of the New York State Constitution. Additionally, New York City Administrative Code section 14-151 prohibits the Department and its officers from intentionally engaging in biased-based profiling. This means that a member of the service 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."