INVESTIGATIVE ENCOUNTERS
The law is not new
1. Request for Information
2. Common Law Right of Inquiry
3. Terry Stop
Patrol Guide

Section: Command Operations

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.
He fits the “Profile”
Level 1

Request for Information
Objective Credible Reason
Level 1 Tools:

- You can continue to observe
- You can ask non-accusatory questions
You Can’t:

- Ask accusatory questions
- Seek consent to search
- Detain the person, block his path or use force
- Direct the person to stop
Level 2

Common Law Right Of Inquiry
Founded Suspicion
Level Two

FREE TO LEAVE

1

Non-accusatory Questions

FREE TO LEAVE RUNNING AWAY ELEVATES

2

Pointed Questions
Consent to Search
Protective Measures

FOUNDING SUSPICION
Common Law Right of Inquiry
What can you do?

- Can you ask accusatory questions?  
  - Yes

- Can you ask for consent to search?  
  - Yes

- Can you use force or threaten to use force?  
  - No
What can you do?

- Can you use protective measures?
  - Yes
- Can you direct the person to stop?
  - No
- Can you block the person’s path?
  - No
A Level 2 Encounter is not a Stop:

- It is an encounter
- It is an approach
- Person must always feel free to leave
Consent to Search

“May I search your bag/person?”

“I can only conduct a search if you consent. Do you understand?”
Right to Know Act

- All Level 2 encounters
- All Level 3 Terry stops
- Frisks
- Searches
- Vehicle checkpoints
- Detectives only:
  questioning of witnesses and victims

Explain purpose for the encounter
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

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.
Does the person have to:

- Answer your questions?  
  - No
- Produce ID?  
  - No
- Consent to a search?  
  - No (but you can ask)
- Can he or she walk away?  
  - Yes
Body-Worn Camera Video
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
Corroborating an ANONYMOUS CALLER
WHEN YOU GET TO THE SCENE

Observations that corroborate alleged criminality
Body-Worn Camera Video
Level 3

The Terry Stop
STOP AND POSSIBLY FRISK

There are two standards here:

Stop: reasonable suspicion that someone has committed, is committing, or is about to commit a felony or Penal Law misdemeanor.

Frisk: independent reasonable suspicion that someone is armed and dangerous.
What is a Frisk?

What is 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 and articulable facts.
Body-Worn Camera Video
A summons is a Level 4 encounter

Can you frisk someone you are going to summons?
A Good Stop Report

DOES THE TALKING FOR YOU
The Narrative: DETAILS, DETAILS, DETAILS

[DO THE FACTS SUPPORT A STOP? ARE ALL CHECKBOXES EXPLAINED? IS THE RADIO RUN DESCRIPTION INCLUDED AND HOW THE SUSPECT MATCHED IT?]

[WHY DID YOU FRISK? WHY DID YOU SEARCH?]
The Activity Log Entry

You need to include:

- Date, time and location of stop
- Pedigree information
- ICAD #
- Suspected Felony or Penal Law Misdemeanor
- Precinct Serial Number, if available
Stop Report:

- All Level 3 Terry Stops, even if it leads to an arrest
- Every person stopped
Minors 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.