

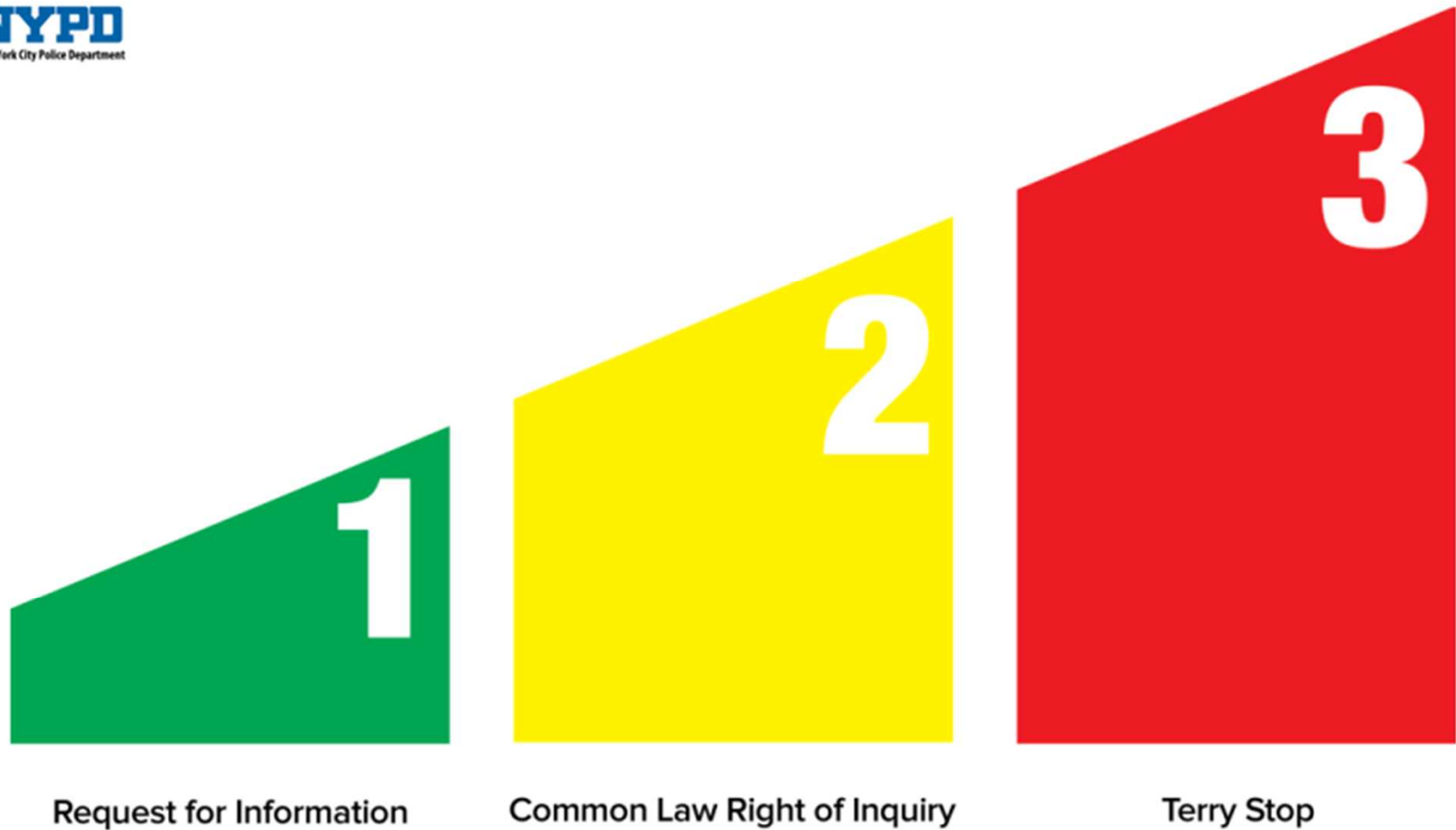


INVESTIGATIVE ENCOUNTERS



The law is not new







PD
Police Department



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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06/27/16

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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.



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

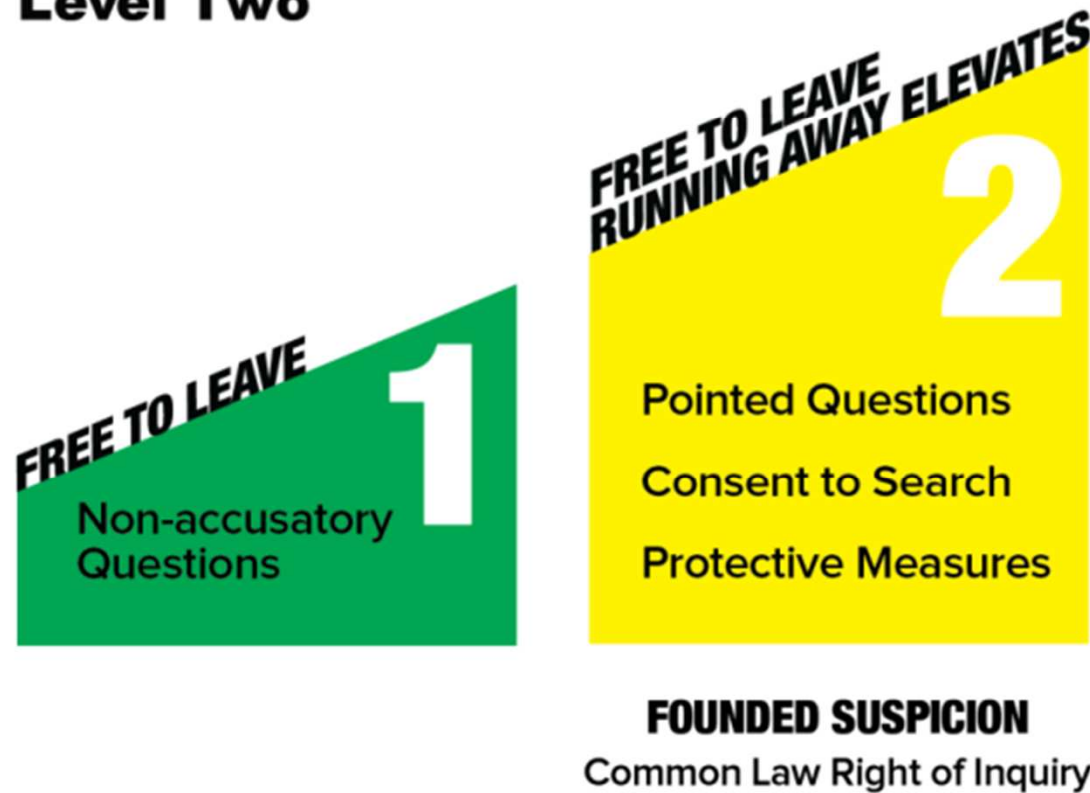




Founded Suspicion



Level Two





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**



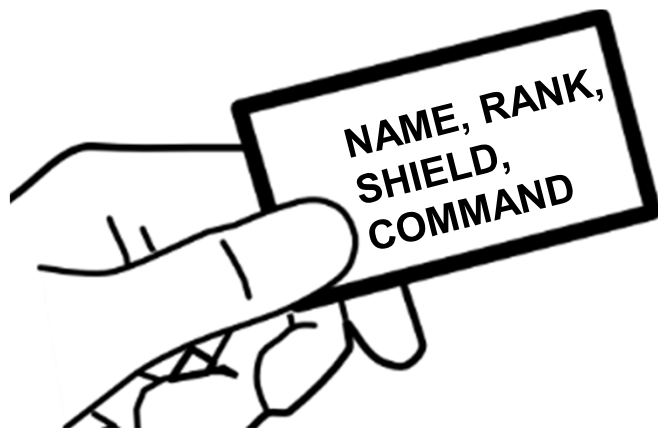


Consent to Search

“May I search your bag/person?”

“I can only conduct a search if you consent. Do you understand?”

Right to Know Act



+

Explain purpose
for the encounter



- 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

Command

Phone Number

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

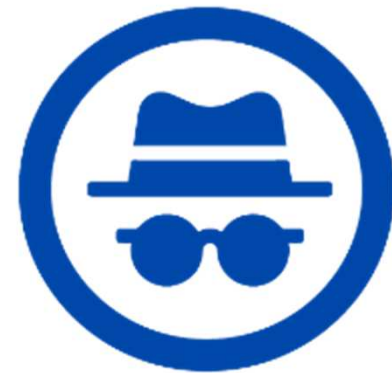
www.nyc.gov/police-encounters

or

For Comments, Call 311

BUSINESS CARD PD 142.012 (03.18)

Right to Know Act Exceptions





Protective Measures

PATROL GUIDE

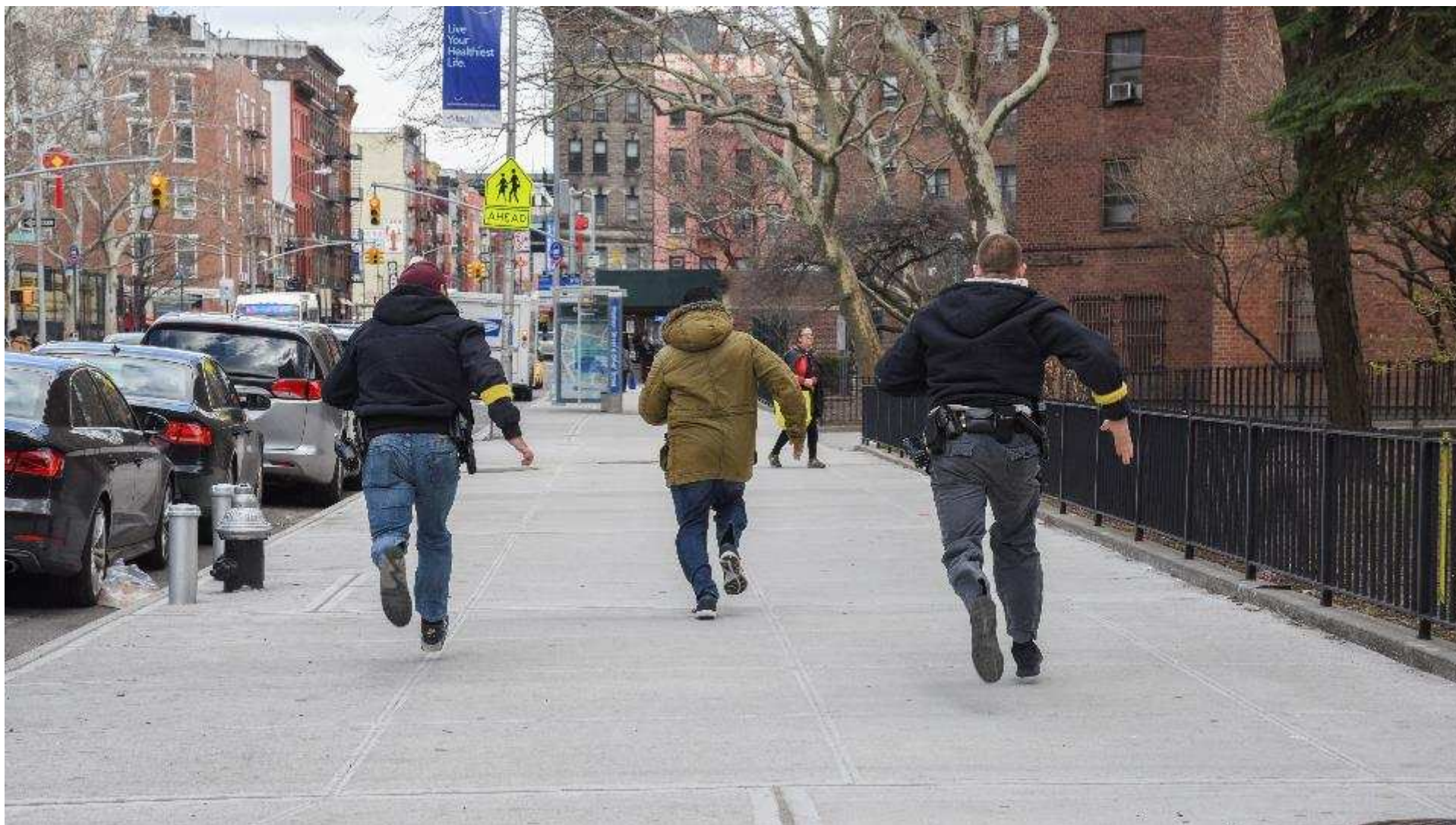
PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
212-11	10/05/15		6 of 12

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



Level Two





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





Level Three

FREE TO LEAVE

1

Non-accusatory Questions

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



There are two standards here:

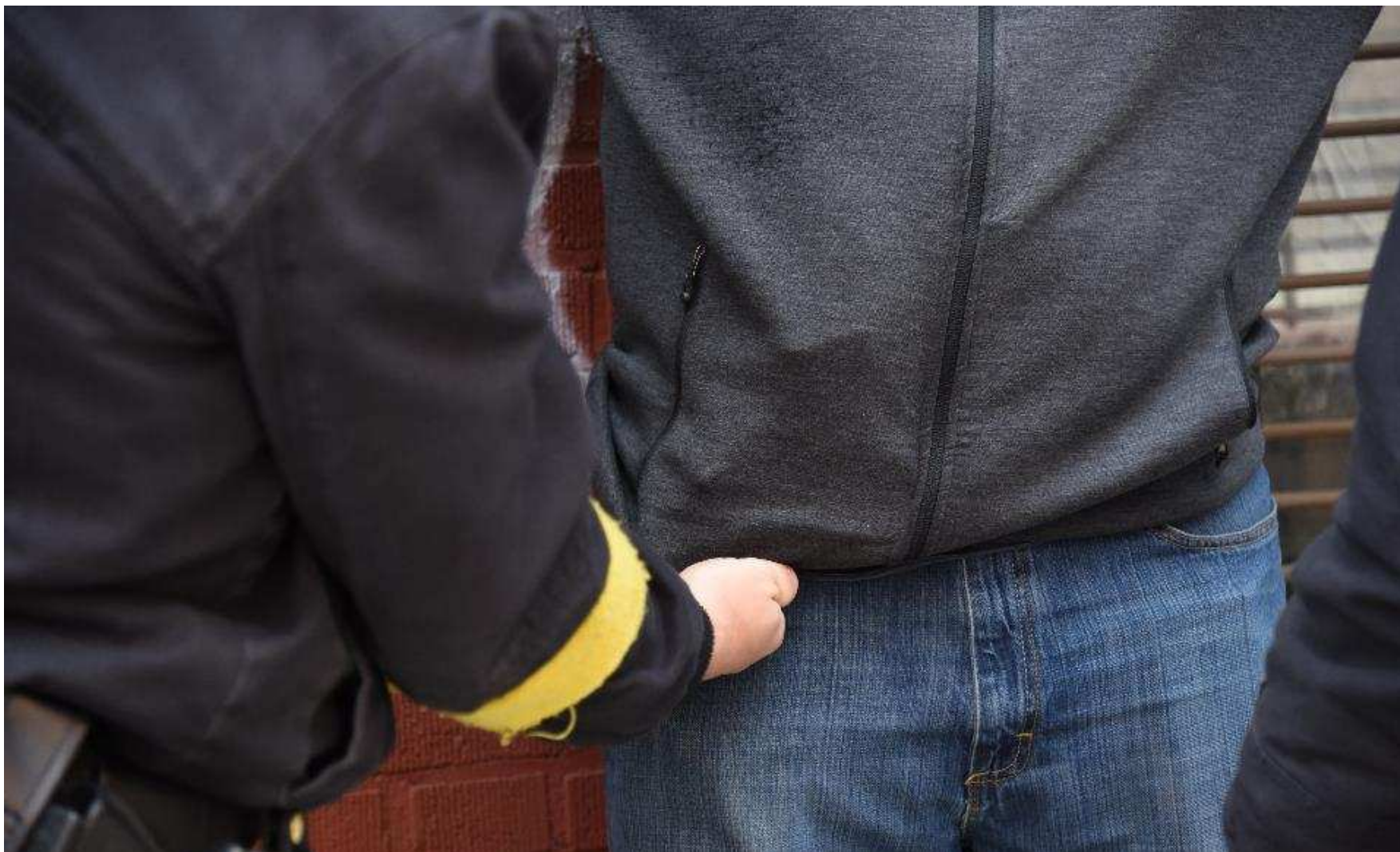
Stop: reasonable suspicion that someone has committed, is committing, or is about to commit a felony or Penal Law misdemeanor.

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

FORMS

STOP REPORT

GREEN | REQUIRED 39:54

Narrative (Describe the circumstances that led to the Stop)

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

Frisked/Searched/Weapon/Contraband Information

Was person frisked?
Select...

Was person searched?
Select...

Was weapon found?
Select...

Was other contraband found?
Select...

Narrative (Describe the circumstances that led to the Frisk and/or Search)

[WHY DID YOU FRISK? WHY DID YOU SEARCH?]

FORMS

STOP REPORT GREEN : REQUIRED 50:16

Person Stopped

None selected ▾

Sex
Select... ▾

Race
Select... ▾

Age
[Text Field]

Height
[Text Field] ft [Text Field] in

Weight
[Text Field] lbs

Hair Color
Select... ▾

Eye Color
Select... ▾

Build
Select... ▾

Other (Scars, Tattoos, Outer Garments, Etc.)
[Text Field]

Arrest/Summons issued?
Select... ▾

Stop Information

Did officer explain reason for stop?
Select... ▾

Information card given to person stopped?
Select... ▾

Were other persons Stopped/Questioned/Frisked?
Select... ▾

Did a Body-Worn Camera (BWC) capture the event in whole or in part?
Select... ▾

Actions Taken to Stop and/or Detain Prior to Arrest
None selected ▾

Was suspect arrested?
No ▾

Was Summons issued?
No ▾

100%

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**



PG 212-11: Minor or Inadvertent Mistakes

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.

