

# **Attachment 3**

**REDACTED**

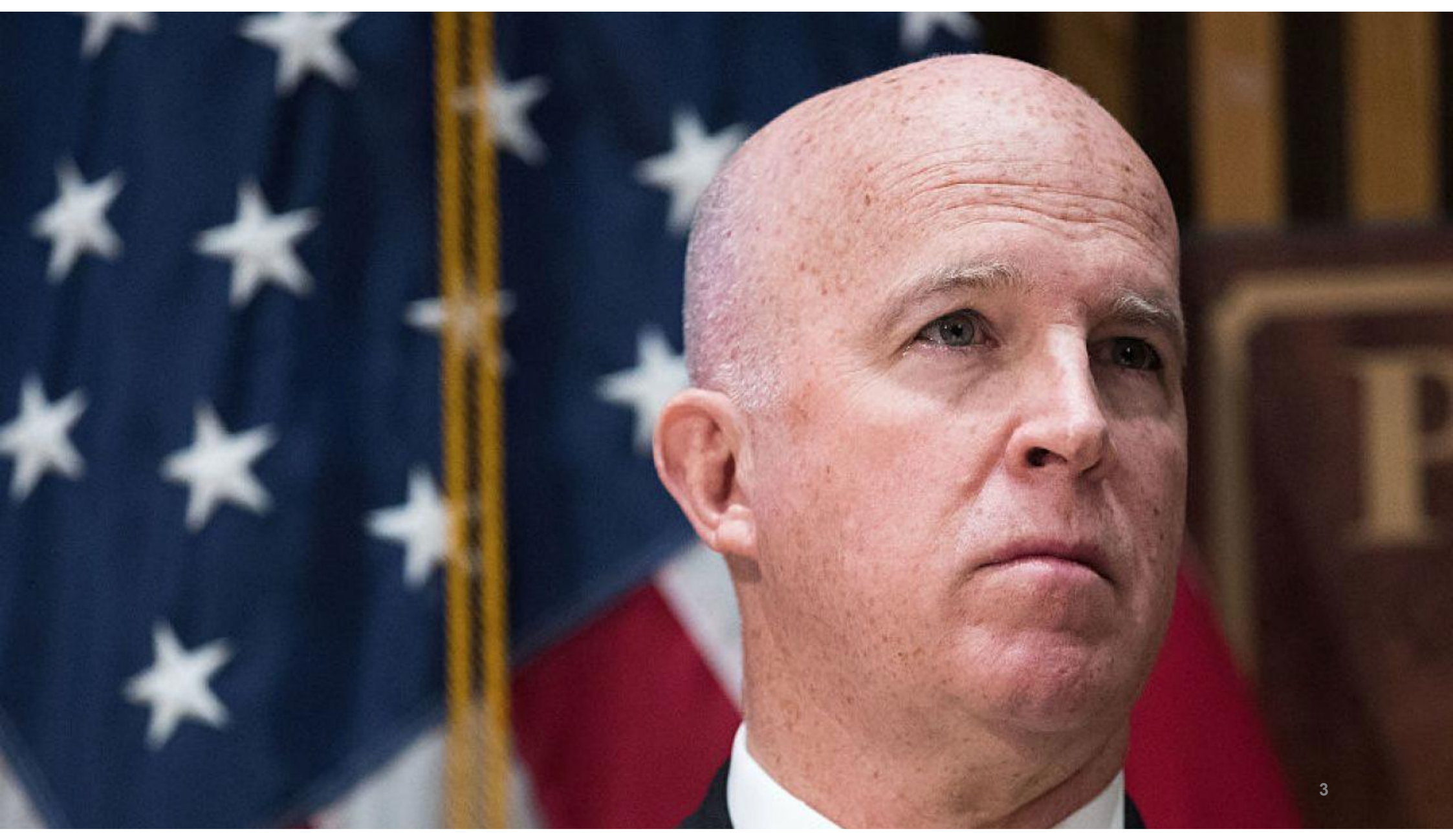
# INVESTIGATIVE ENCOUNTERS

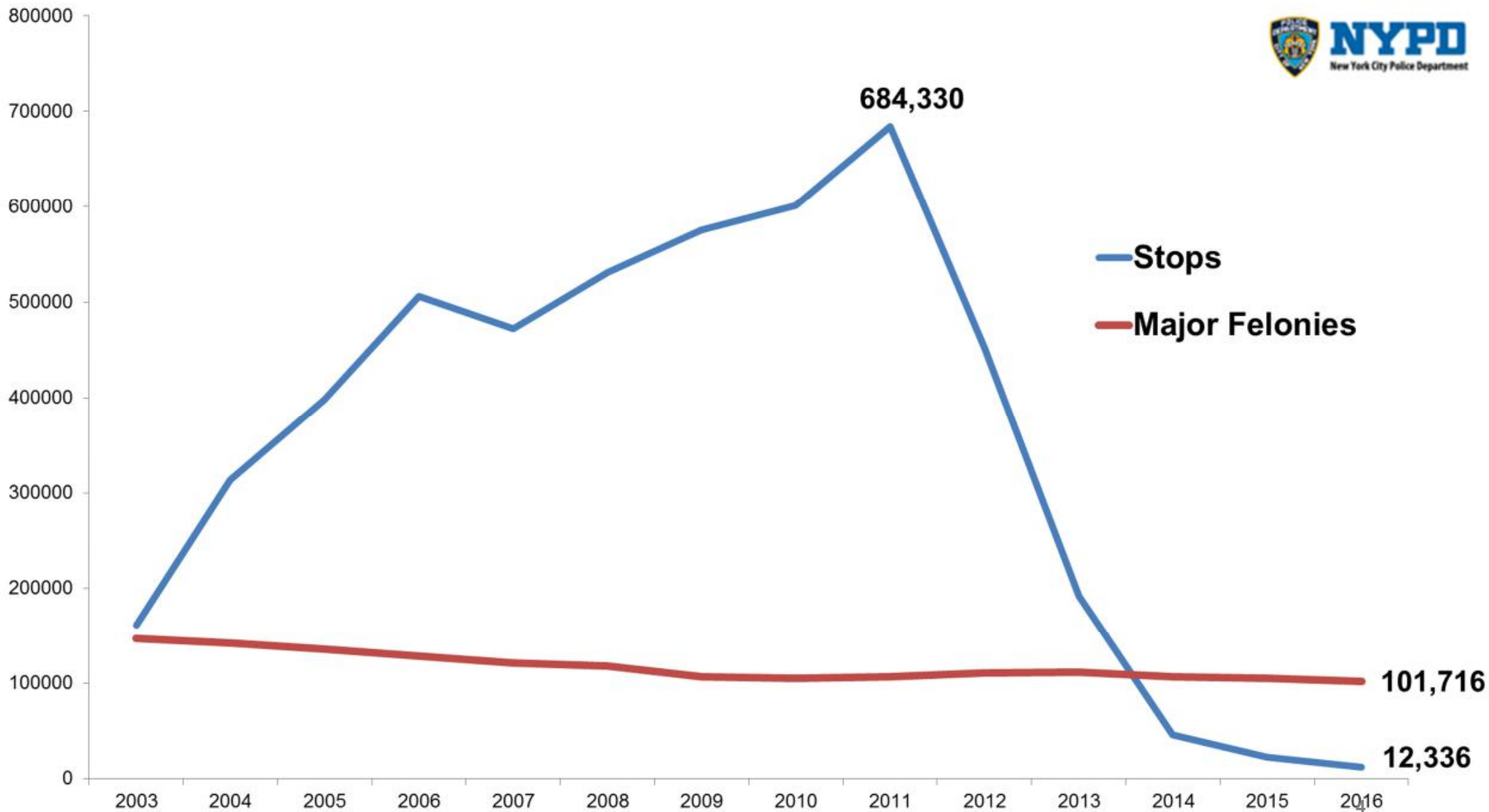


# Learning Objectives:

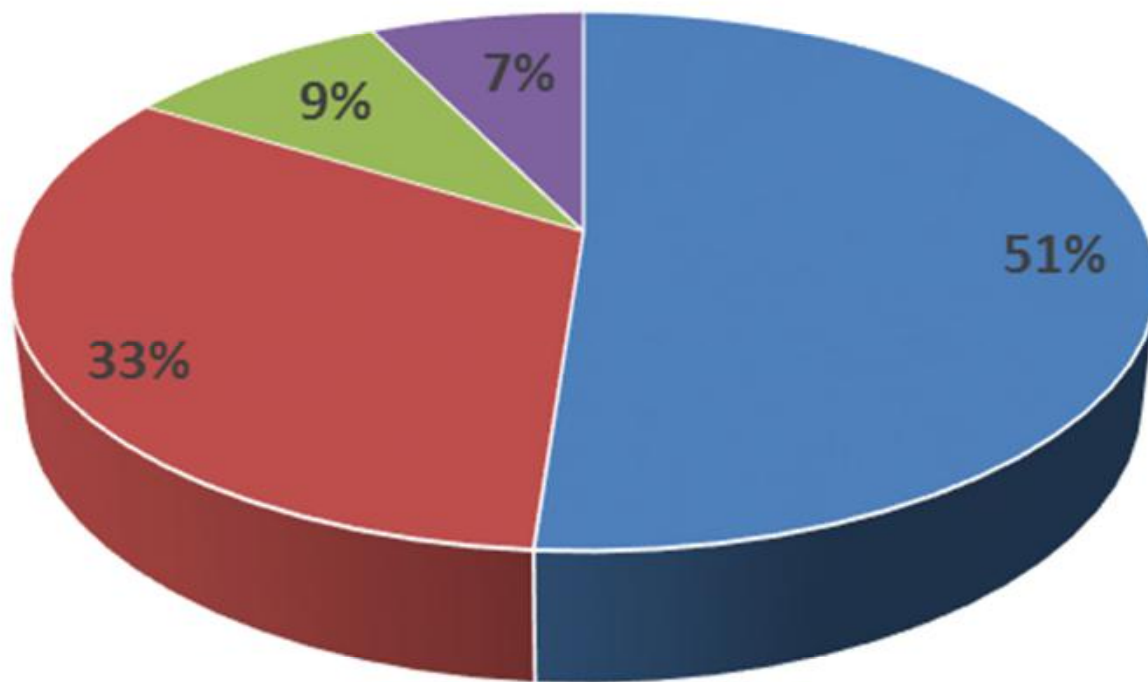


- **Understand the different levels of Investigative Encounters and the tools you have at each level**
- **Understand the documentation responsibilities, including how to prepare a good Stop Report**
- **Understand what is expected during the supervisory debriefs that follow stops**
- **Understand the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



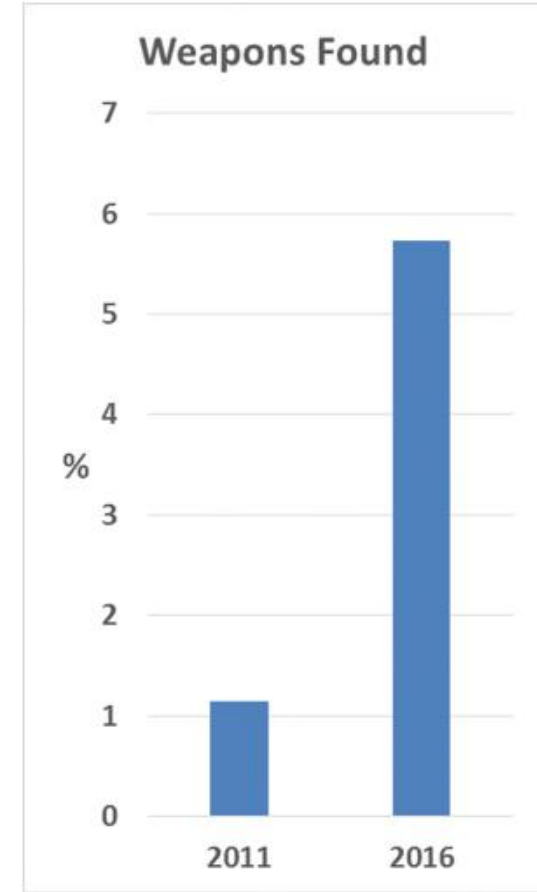
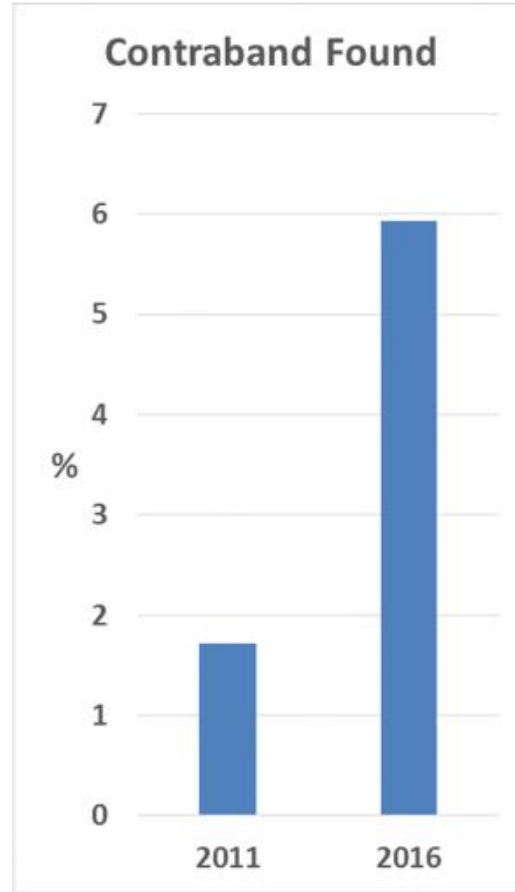
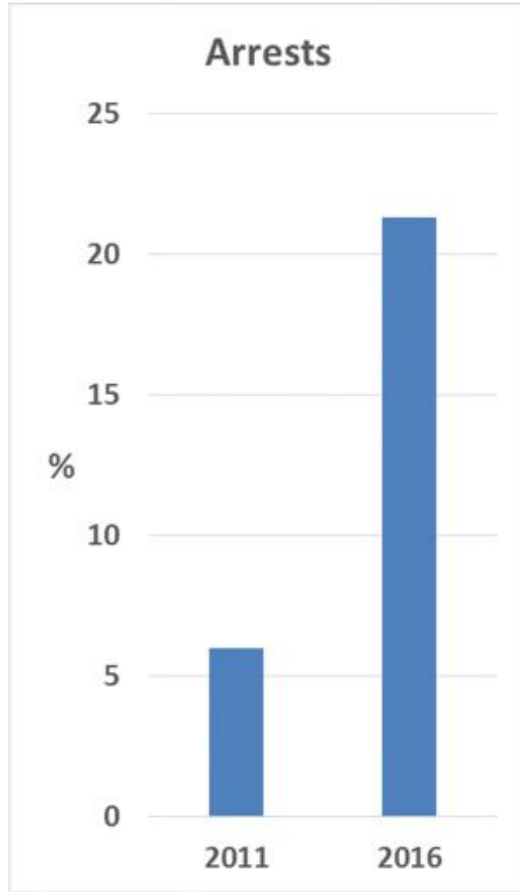


## NYC Stops in 2011



■ 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	
<b>INVESTIGATIVE ENCOUNTERS; REQUESTS FOR INFORMATION, COMMON LAW RIGHT OF INQUIRY AND LEVEL 3 STOPS</b>			
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**



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?

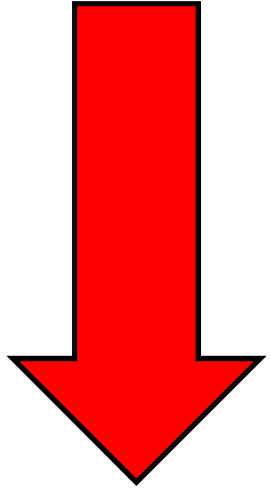
Pointed Questions  
Consent to Search  
Protective Measures





**REASONABLE SUSPICION**  
Terry Stop





# Level 1

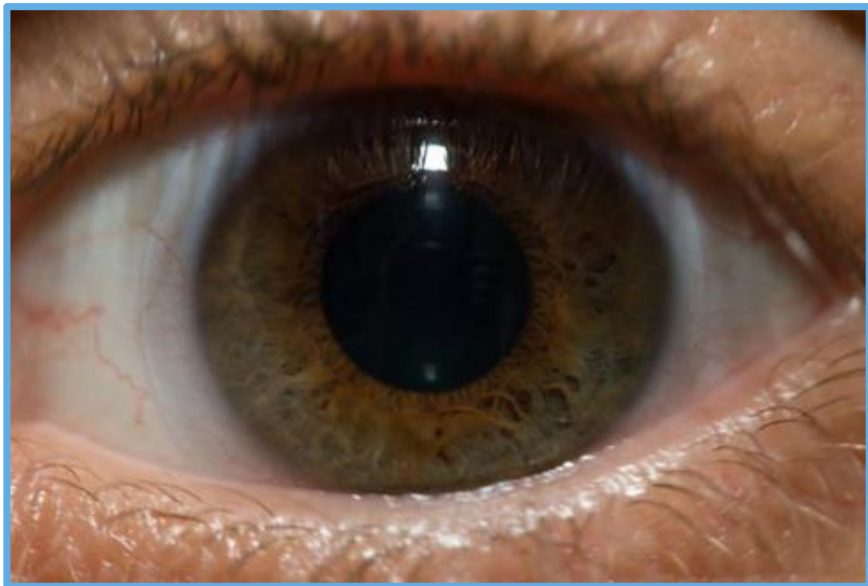
**Request for Information**

**Objective Credible Reason**





# Level 1 Tools



## Non-accusatory Questions

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## 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...**

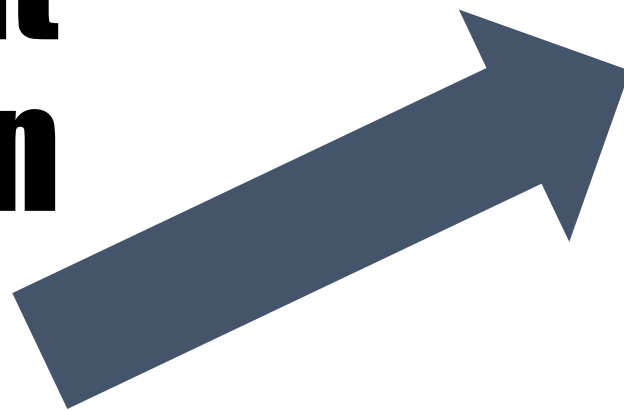
**Does the person have to  
stay and answer  
questions?**



**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. \_\_\_\_\_

E Mail \_\_\_\_\_

@nypd.org

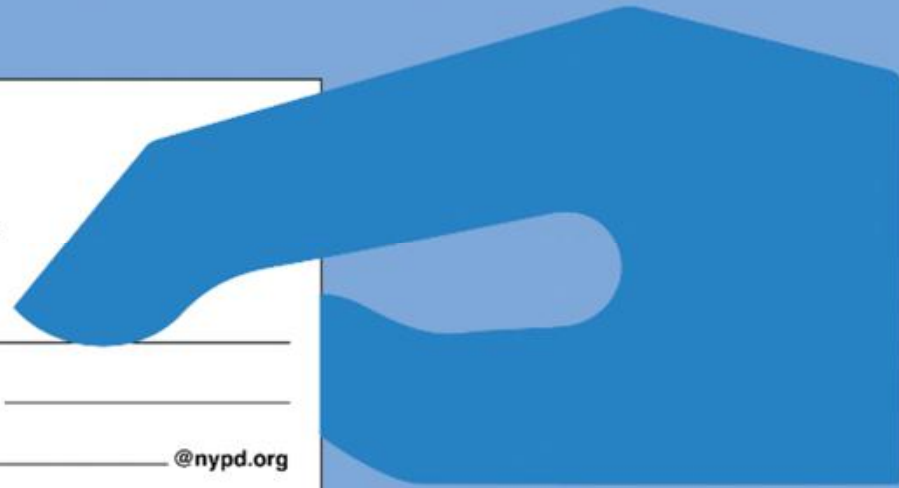


**NYPD**  
New York City Police Department

Rank/Name \_\_\_\_\_

Shield \_\_\_\_\_ Cmd. \_\_\_\_\_ Tel. \_\_\_\_\_

E-Mail \_\_\_\_\_ @nypd.org





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New York City Police Department

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New York City Police Department

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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

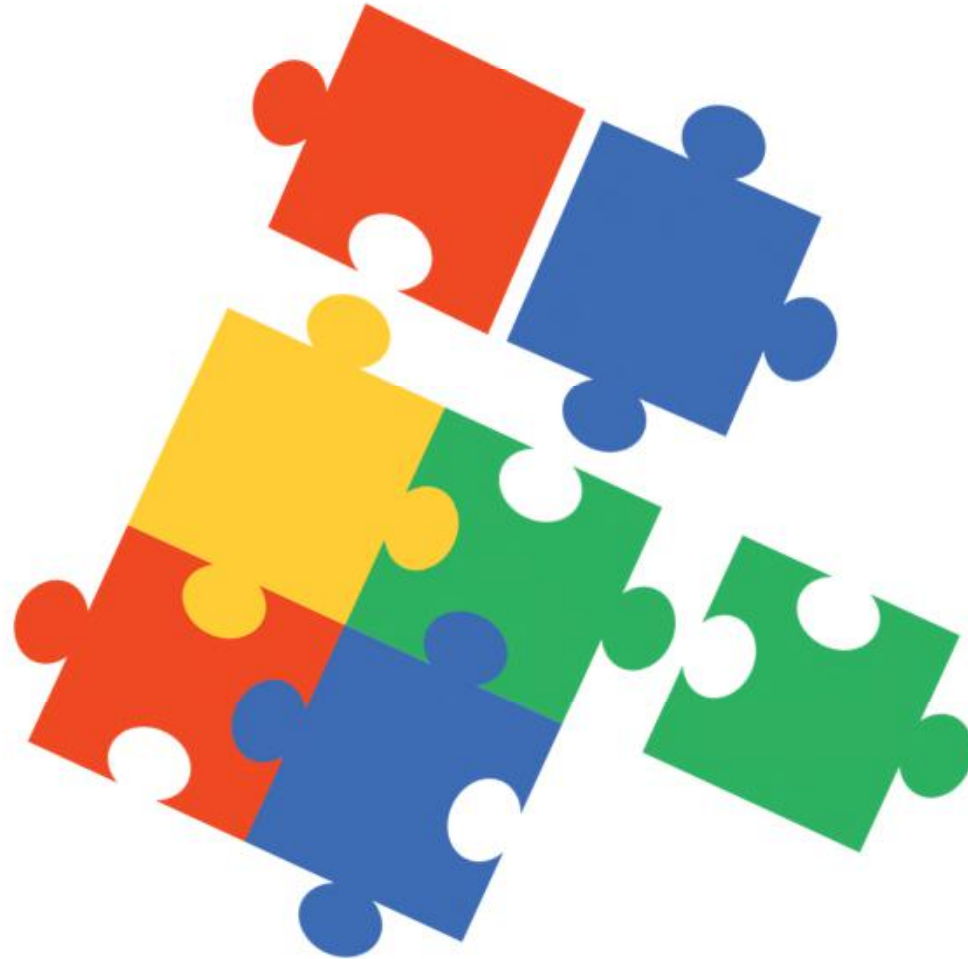
## Reasonable Suspicion

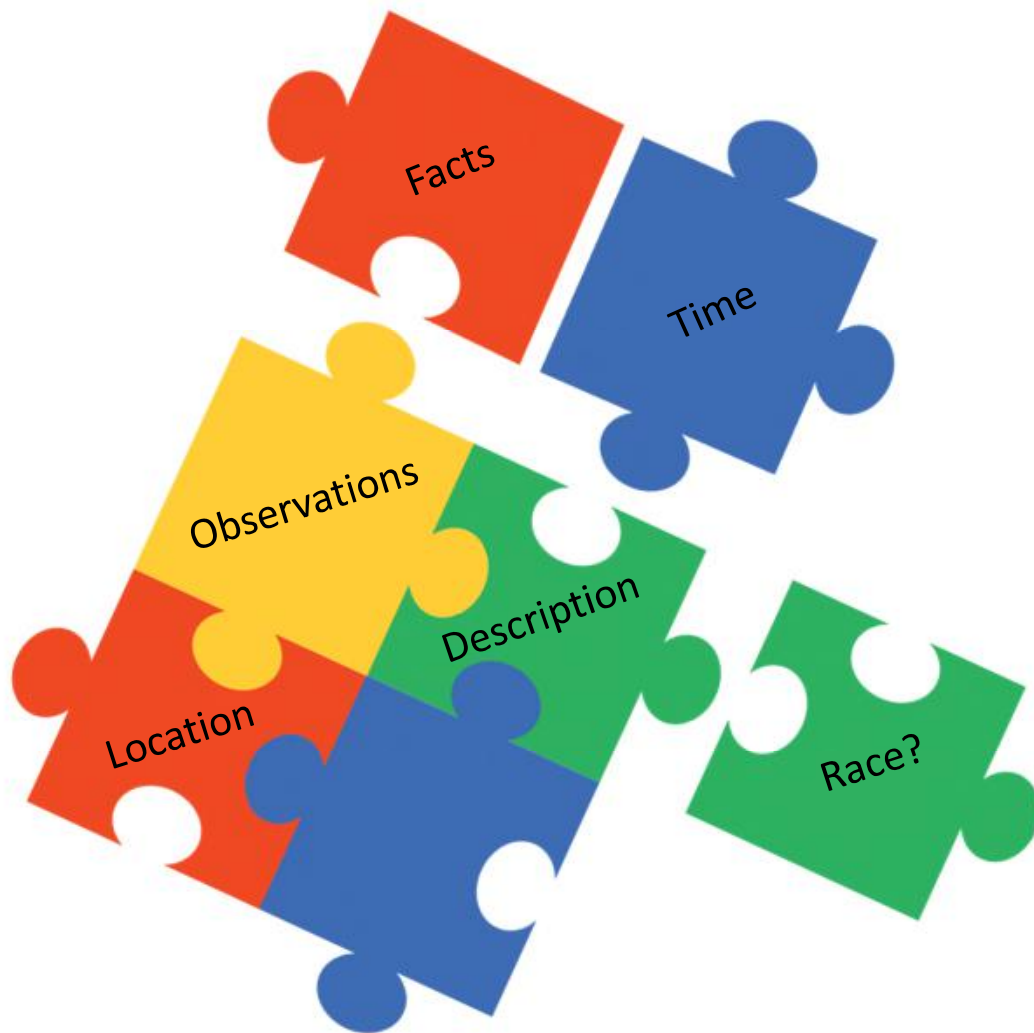


**PATTERN**  
**12**



# 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 14<sup>th</sup> street – they ran down University. It’s a young man and woman in their 20’s. He is white, has brown hair, ponytail....**

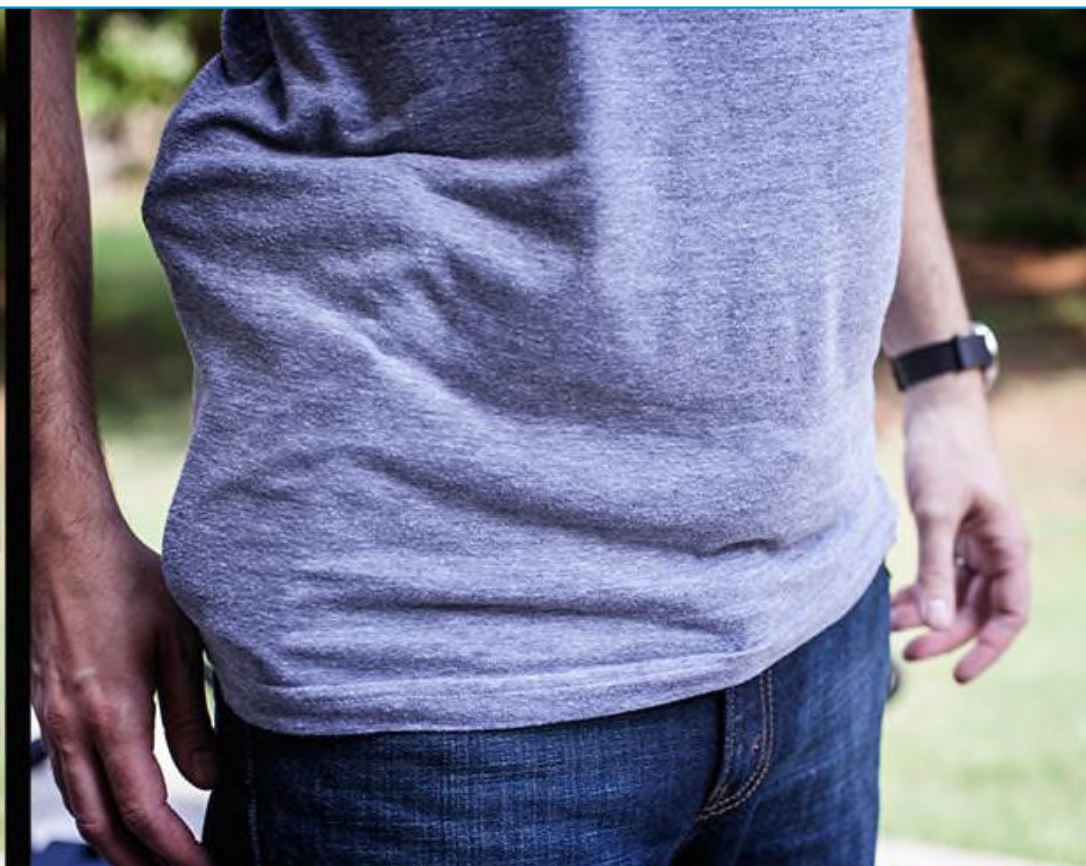
**“I frisked for my safety...”**

**“...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

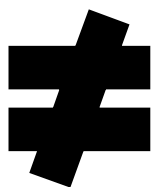
I HAVE NO IDEA

# TAP and NYCHA Interior Patrols



# **There's no 4<sup>th</sup> Amendment Exception The law applies to NYCHA and TAP**

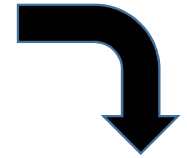
**Mere  
presence**



**an Objective  
Credible  
Reason**

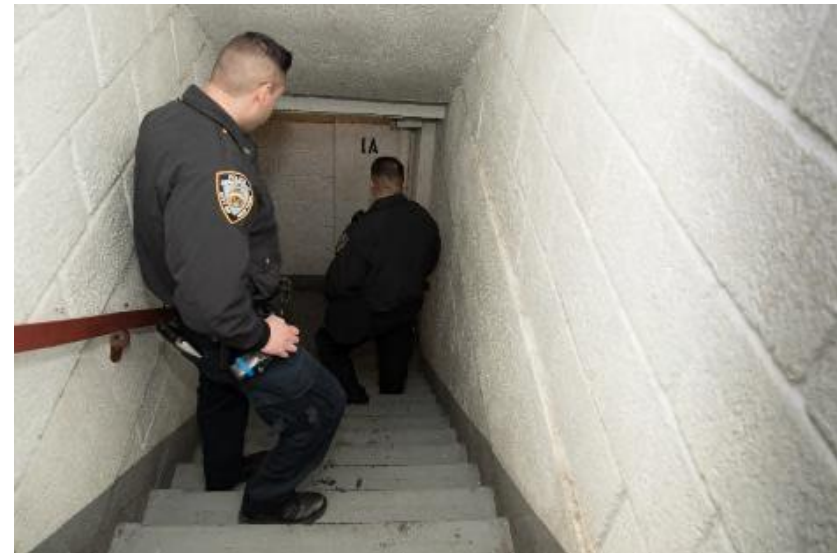


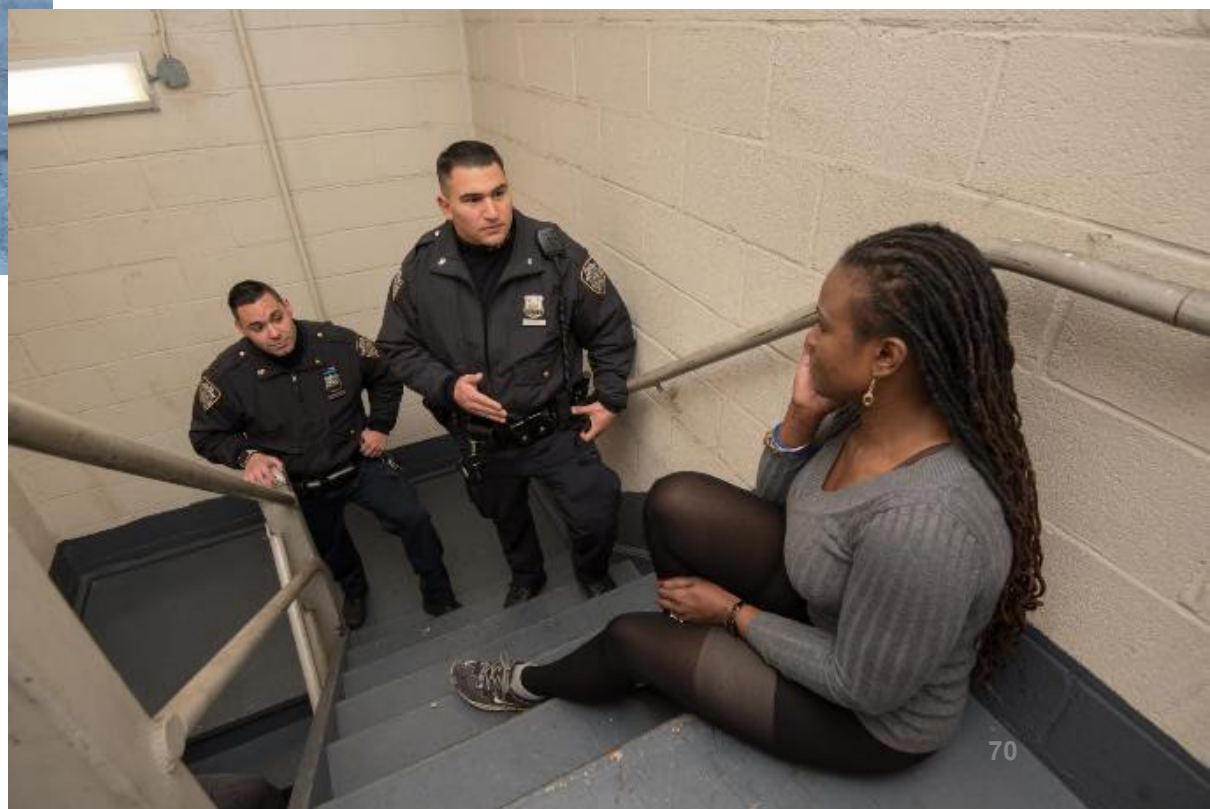
**FOR TAP VERTICALS, CONFIRM  
CURRENT OWNERS AFFIDAVIT  
(SIGNED WITHIN PAST 6  
MONTHS)**



**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®



**911**



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, 6<sup>th</sup> Floor**
  - **212-618-3100**

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

# **SURVEY MONKEY**