

Attachment 2

**INVESTIGATIVE ENCOUNTERS
IN-SERVICE TRAINING**

INSTRUCTOR'S GUIDE

Part I B

For Sergeants and Lieutenants



The importance of leadership in getting this right.

Regarding Sergeants:

- They are the front line supervisors. They have a duty to guide and train the officers under their supervision. It is a supervisor's duty to ensure that their subordinate officers are doing their jobs fairly, legally, and in compliance with Department policy.
- As supervisors, it is their duty to review Stop Reports and the circumstances of the underlying stop encounters carefully and give feedback, and when necessary, instructions or a referral for formal training and/or discipline.
- If their people know the law and the procedures, their people will be safer – safer physically, professionally, and legally. Discuss the impact of good/bad paperwork for criminal trials and CCRB.

Regarding Lieutenants:

- Particularly ICOs. The monitor is looking at the quality of your command's Stop Reports and your command's compliance regarding doing Stop Reports when they are required.

It is also critical for Lieutenants on patrol. The difficult questions will absolutely elevate to you.

Do the Stop Report for:



Replay above body camera video and have the class prepare a Stop Report for this stop. (Post mock location, time, pedigree, etc. information so that the class may complete the report).

The class should hand in their Stop Reports.

One instructor should display the narratives of “bad” Stop Reports for this stop from a pre-existing collection that includes a mocked-up “bad” report and other anonymous examples collected from prior classes. The class should discuss the deficiencies in these examples.

Meanwhile, other instructors should go through the reports prepared by the class and look for a good example to display.

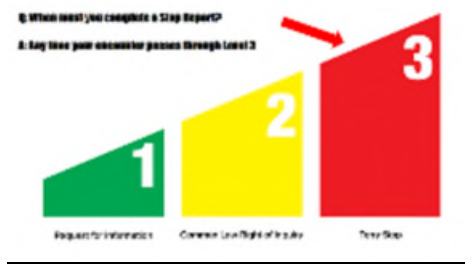
Display the good example from a member of the class on the overhead projector and discuss it.

A Good Stop Report



**DOES THE
TALKING FOR YOU**

This is a takeaway from the previous exercise. The narrative should lay out the facts that established reasonable suspicion. Did the Stop Report they each just prepared do that? We saw what one looks like when it does and when it does not lay out all of the facts, and we’ll see more examples later.



Discuss **WHEN** officers should be completing Stop Reports:

An MOS must ALWAYS do a Stop Report anytime he/she stops someone, meaning anytime the officer conducts an encounter that would make a reasonable person feel like he or she is not free to walk away. This includes a stop of someone in a TAP or a NYCHA building.

Remember, the triggering event for the MOS to do the Stop Report is not whether the officer you supervise thinks he has reasonable suspicion to stop someone. It is whether the officer conducted an encounter in a way that would make a reasonable person feel as though he was not free to leave. If the officer did so, then it was a “stop” and a Stop Report must be prepared.

Any time an encounter passes through Level 3, we need to document the encounter in a Stop Report.

So, what if:

- A gun run based on an anonymous call starts as a Level 2 but goes up to a 3 because the subject runs when officers get there? Officers give chase, catch him, frisk him, and recover a gun from him and he’s under arrest. Since there is an arrest, do you have to do a Stop Report? Yes, because this started as a 2 and became a 3. The officers did effect a Terry Stop and a Terry Stop = a Stop Report, even if it ends in an arrest.
- What about a summary arrest? It’s an assault 2 minutes in the past, and when the sector arrives, the complainant is on the scene and points the person out. Would there need to be a Stop Report for that? No. It was at probable cause/Level 4 when the officers arrived. The event never passed through Level 3.
- What about a VTL stop? What if passengers are ordered out and not frisked? No Stop Report. But what if they are frisked? You should do a Stop Report. The authority to frisk someone does not flow from the moving violation itself but rather is authorized when the officer develops Level 3 reasonable suspicion that the person is armed and dangerous during the traffic stop.

- What if it's a stop, and the person matched the description perfectly, but it was the wrong person and there is a cordial, smooth disengagement? It was a *Terry* stop, so you still need a Stop Report.

- Let's do one more example involving a summons – not a traffic summons, but a penal code or administrative violation. And if you attended promotional training in the last year or so, you might have received different guidance, so we want to be very clear about this. What about an officer who observes a person urinating in public and begins to issue the person a summons? And let's say the individual is aggressive toward the officer or blades the officer while the officer is processing him for a summons. The officer feels concerned for his safety and frisks the individual. Was that a *Terry* stop? No. The officer's authority to frisk flowed from an articulable safety concern during a Level 4 summons-in-lieu-of-arrest encounter and not from an investigatory detention pursuant to *Terry*, so the officer does not need to fill out a Stop Report.
 - Alternatively, what if a male, who matches the description for a robbery perfectly, is stopped and frisked, and a knife with a six-inch blade is recovered from him. The male is NOT identified in a show up and the actual perpetrator is apprehended shortly thereafter. Then we would do the Stop Report because the frisk was due to a *Terry* stop. The *Terry* stop preceded the probable cause for the violation.

[Note the contrast here between VTL summonses and pedestrian (for lack of better label) summonses.]

Discuss **HOW MANY** Stop Reports to prepare:

We must do one for each individual stopped and the narratives must relate to the particular individual named in the Stop Report.

So what if a complaining witness reports that 5 young men robbed him on a train, and 5 young men matching the various descriptions provided by the complainant are stopped near the station and brought back for a show up, but the CW only ID's 3 of them - how many Stop Reports have to be prepared? FIVE, because five people were STOPPED.

Suppression



UMOS need guidance on knowing when to do the report...

- They don't want to do the Stop Report because of scrutiny
- They don't realize that exposes them to greater risk
- They don't think they need to do a stop because there was an arrest



Do you know what this is? It's an image of the Stop Report that cost a cop two vacation days. It's the one he didn't do.

- - -

You can help your people here. In today's climate, with the increased oversight, some officers may seek to avoid preparing Stop Reports. Cops are failing to document their stops and it is the supervisors' role to make sure they understand when they need to prepare Stop Reports. You know the jobs your officers are handling, and you are aware of the encounters they are having, because you are with them, you are checking on them, or you hear their work over the radio. Make sure they are documenting their stops.

Failure to document stops is a suppression of data, either intentionally or unintentionally, and we can't have it. For some officers, it is avoidance. As supervisors, you need to guide them. You need to give them confidence in your ability to provide them with a competent review and confidence in their ability to prepare a good Stop Report.

While it's avoidance for some officers, for others it is education. They may not realize they need to do a Stop Report. The stop that is valid but quick and cordial still needs to be documented. And a Stop Report still has to be prepared when there is an arrest if the arrest was preceded by a *Terry* stop – some officers don't realize that.

Suppression of Stop Reports is bad for the Department and for the officer. When an officer takes enforcement action that is legal, and does not document it properly, the officer, as well as the Department, can face consequences. It may appear as though the Department/officer is trying to hide some wrongdoing. Outside entities that monitor the Department review Stop Reports to see whether the NYPD is conducting stops in a lawful and constitutional manner. Supervisors have an obligation to make sure that officers under their command are filling out required paperwork accurately and completely.

Patrol Guide 212-11 requires Supervisors to:

- Discuss the circumstances of the stop with the officer.
- Determine if stops, frisks and searches conducted by their officers were supported by Reasonable Suspicion.
- Assess whether the Stop Report fully explains the basis for the stop and the basis for any frisk/search, if conducted.
- Take corrective action if a stop, frisk, or search itself was improper, or the paperwork was not filled out correctly.

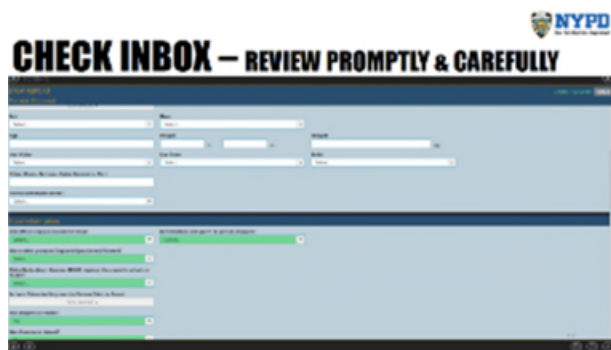


The first step is to talk to the officer. The Patrol Guide now requires supervisors to discuss every stop with the officer who conducted it.

Supervisors must review the basis for the stop and determine if the officer had reasonable suspicion to support the stop and, if conducted, the frisk and/or search.

This is a much more in-depth review than just checking to see if the form is filled out completely. It is a conversation about the facts and a careful review of the documentation and this is all required by PG 212-11.

During these conversations, ask open-ended questions to allow officers to explain the reasons for the stop/frisk/search in their own words (e.g. “why did you stop/frisk this person?” “why did you believe the suspect was armed?”). If the officer uses conclusory language (e.g. “furtive movements,” “drug prone location,” “robbery pattern,” “matched description of robbery suspect,” “suspect non-cooperative,” etc.), ask follow-up questions to probe for more details.



Review the officer's electronic Stop Report.

[Instructor should make attendees take out their phones and open the App.]

We should be using the electronic FORMS now – no more paper.

When one of the officers you supervise completes a Stop Report, he/she will send it to you electronically for your review. We've been hearing that sometimes supervisors are not getting alerts that they have a Stop Report awaiting review in their queue, so your people should get in the habit of following up with you and telling you there is a report awaiting review. And you should check your queue. These reports can't be left open for days.

Review the form for overall completeness and accuracy. Supervisors must complete the "Supervisory Action" section of the Stop Report. There are a series of boxes here that ask you questions like whether you reviewed the incident with the officer, whether the report is complete, whether there was a sufficient basis (meaning reasonable suspicion) to do the stop. You must read every question and check the responsive box. Don't leave questions unanswered or blank. And don't robo-check or robo-sign. Actually read the question. Do not say "yes," there was a "sufficient basis for the frisk," when the officer indicated on the form he DIDN'T even frisk the person. Alternatively, don't check "yes," there is a sufficient basis for the frisk when the officer DID frisk the person but the crime suspected was petit larceny and there were no facts to support a reasonable suspicion that the suspect was armed and dangerous. Read the questions. Answer them carefully.

Read the narratives carefully. A narrative that fails to convey all the essential facts is a very common error we see in Stop Reports.

The first narrative section is utilized to explain why the officer stopped an individual.

The second narrative section is utilized to explain why the officer frisked/searched the person stopped if one or both of those actions were taken.

Determine whether the officer's narratives convey all the important facts the officer relied upon in making his/her decision to stop and frisk/search if the officer took those additional steps. Does the narrative explain the boxes checked by the officer as contributing factors for the stop and the frisk?

We saw this in the earlier exercise. From the content contained within the four corners of the Stop Report, a reader should be able to read the Stop Report and determine why the officer stopped the individual, and if the officer frisked/searched the person, the reader should also be able to see the basis for one or both of those actions as well.

In each of the narrative sections on the Stop Report, the officer must explain in his/her own words the facts supporting each of the stop factor checkboxes that are checked off on the form. For example:

1. If the officer checked off "Matches a specific suspect description," he or she must include in the narrative all the details of that description, beyond just race, age and gender, as well as whether that description was provided by an anonymous or identified source.
2. If the officer checked off "Identified Crime Pattern," the officer must provide all of the details of that crime pattern in the narrative.
3. If the officer checked off "Concealing or Possessing a Weapon," they must provide all the facts that led them to suspect the person of possessing a weapon. They cannot just write conclusory statements like "furtive movement" or "bulge." Instead, they must provide specific details (For example: "bulge observed in waistband" or "suspect repeatedly touching object in waistband while staring at officer").

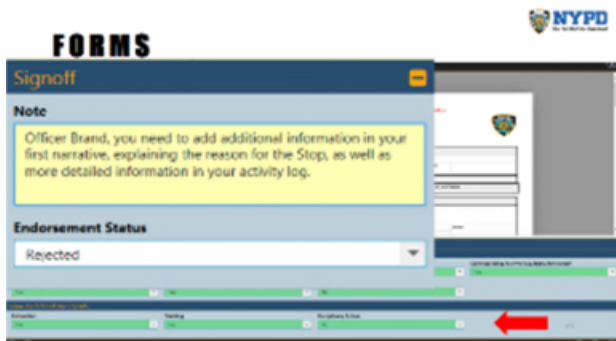
Look for Common Mistakes:



- **Insufficient narratives**
- **Omitting basis for use of force**
- **Omitting details regarding the suspect's description**
- **Documenting offer/issuance of tear-off**

During your review, look for other common mistakes:

- Insufficient narratives
- Omitting basis for the use of force
- Omitting the details of the suspect description provided from Radio Dispatcher or witness in the narrative
- Documentation re: the tear off. If refused, note that on report.



If there are errors or omissions in the Stop Report, you must reject it and send it back to the officer and advise how the Stop Report is deficient. In this case, you reject the report, so it goes back to the officer to correct.

This is what supervisors will see (includes the Supervisory Action section). The report may be corrected by direction given via these comment boxes.

What if, after you've discussed the stop with the officer and the Stop Report includes all of the factual details of the encounter and all errors or omissions have been corrected, you then determine that the officer did not have a sufficient basis for the stop, frisk, and/or search (e.g. there was no reasonable suspicion for the stop)? What do you do? Do you accept and sign off on the Stop Report? Yes.

But you should check “no” in the sufficient basis for stop, frisk, and/or search sections of the Supervisory Action section of the Stop Report.

Supervisory Action (Must Complete)			
Supervisor on Scene During Stop?	Encounter Reviewed With Officer?	Report Accurate and Complete?	Corresponding Activity Log Entry Reviewed?
Yes	Yes	Yes	Yes
Sufficient Basis for Stop?	Sufficient Basis for Frisk?	Sufficient Basis for Search?	
No	Yes	No	
Follow-Up Action (If Appropriate)			
Instruction	Training	Disciplinary Action	
Yes	No	No	

After you complete the supervisory review section, including any follow-up action, you must sign and accept the report. You accept the report even if you checked “no” that there wasn’t a sufficient basis for the stop frisk and/or the search.

If the stop, frisk, search or documentation requires follow-up action, it must be noted on the Stop Report. The options are:

Follow-Up Actions on Stop Reports



Instruction
Training
Disciplinary Action

Some deficiencies may be addressed immediately by the supervisor through instruction. Some might reflect a need for further training. Remember what PG 212-11 says in the note that we saw earlier this morning. Isolated good faith mistakes can often be addressed by Command Level Training. Repeated mistakes or more serious errors in the application of the law or procedure may warrant discipline. Have the class discuss the factors they would consider when deciding what kind of follow up action is necessary.

Review the Activity Log Entry



- Date, time and location of stop
- Pedigree information, unless refused, and detailed description of the person stopped
- Identify in plain language, the suspected felony or Penal Law misdemeanor
- ICAD number, if applicable
- Disposition including the time the encounter was concluded
- Precinct serial number assigned to STOP REPORT, if available
- All facts relied upon by the officer to conclude that there was reasonable suspicion to conduct a stop/frisk/search

As part of the supervisory review, supervisors must also review the officer’s memo book entry for accuracy and completeness.

As with the Stop Report narratives, supervisors must review the memo book entries closely to make sure the officer wrote down ALL of the facts on which they based their decision to make the stop and, if conducted, the frisk and/or search.

[For background information, the reason that we cannot include pedigree information (name, address, social security number) in the Stop Report is that the city is prohibited under CPL 140.50 (4) from recording pedigree information from stops that do not result in an arrest or summons, in an electronic database.]

Tear-off Receipt/Info Card



What is A Stop?
PD 303-153 (06-15)

When a police officer reasonably suspects that a person has committed, is committing or is about to commit a felony or a Penal Law misdemeanor, the officer is authorized by NYS Criminal Procedure law § 140.50 to stop, question and possibly frisk that person for a weapon.

The Police Officer stopped you because the officer had information requiring further investigation. The following factor(s) contributed to the officer's suspicion:

<input type="checkbox"/> Concealing or Possessing a Weapon	<input type="checkbox"/> Acting as a Lookout
<input type="checkbox"/> Engaging in a Drug Transaction	<input type="checkbox"/> Casting Victim or Location
<input type="checkbox"/> Proximity to the Scene of a Crime	<input type="checkbox"/> Other (Specify)
<input type="checkbox"/> Matches a Specific Suspect Description	

Rank/Name	Cmd.	Shield No.

Rear of Tear-off Receipt/Info Card



For more information • Para más información • Per ulteriori informazioni •
 更多信息 • Pour plus d'information • 자세한 내용을 보려면 •
 За дополнительной информацией
www.nyc.gov/nypd

\$1,000 REWARD for information leading to the arrest of anyone who possesses an ILLEGAL HANDGUN. 1-855-GUN-STOP
 NEW YORK CITY'S CUSTOMER SERVICE CENTER: CALL 311

To Report Police Misconduct Contact:
 Civilian Complaint Review Board (CCRB) 1-800-341-2272
 NYPD Internal Affairs Bureau (IAB) 1-212-741-5461

One of the fields in the electronic Stop Report asks the officer whether he/she offered a “What is a Stop” tear off information card to the person who was stopped.

PG 212-11 (17) mandates that if the person is stopped and not arrested, the person must be offered one of these cards. Failure to offer one can only be excused by a true exigency, for example, if officers stop someone matching a description, it turns out to be the wrong person and they immediately are in pursuit of the actual perpetrator.

Again, if a person refuses the tear-off card, the officer should note that on the Stop Report.

Many officers are hesitant to offer this card to the person stopped. It is imperative for you to explain to your officers why they must. Offering the card helps build trust with the community. It helps the person who was stopped understand why he or she was stopped.

Contrast the tear-off card with the Contact Card used at Level 2 to clear up any confusion. This card is different from the Contact Card that we discussed earlier.

- The “What is a Stop?” tear-off card is to be offered whenever a *Terry* Stop occurs that does not lead to an arrest or a summons.
- The Contact Card is to be offered when consent to search is given at Level 2 and there is no arrest.

Officers must carry both of these cards with them. Supervisors are responsible for ensuring that officers comply with this duty.

Connecting your officers with Training

If the manner in which an officer handled an investigative encounter or the documentation of the encounter leads you to conclude that he/she needs some additional training, you have resources.

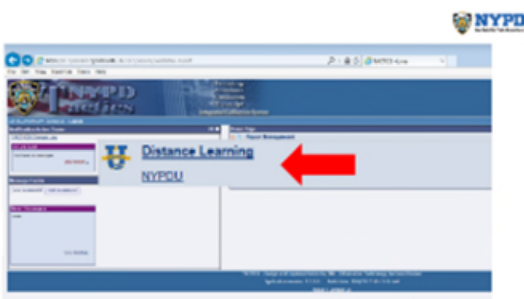
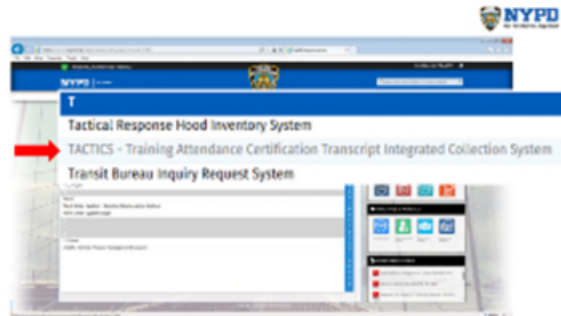
There's you (his/her immediate supervisor), your training sergeant and the Legal Bureau. There are also online training resources that the MOS can be directed to review, including videos. The videos will be among the videos your officers previously viewed at roll call, so they have to know where to look in NYPDU. The next series of slides shows you how to get there through a desktop and our smartphones:

How to Direct UMOS to Investigative Encounters Training Videos



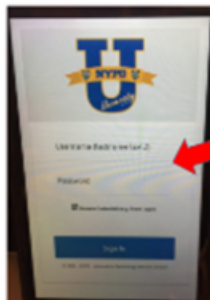
• Available on NYPDU in "My Available Courses" under the Deputy Commissioner of Training

- Video #1 – Request for Information
- Video #2 – Common Law Right of Inquiry
- Video #3 – Terry Stops and Reasonable Suspicion
- Video #4 – Documentation and Supervision
- Public Contact and Consent to Search (Right to Know)

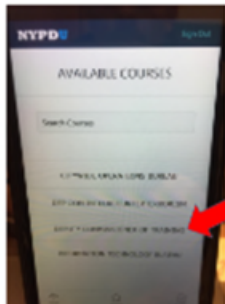




Step 1: Click the NYPDDU Tile



Step 2: Enter your department login credentials. Username: (lastnameTAX) Password: Same used to access all Department applications



Step 3: Click the Deputy Commissioner of Training link under the available courses page

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A Good Stop Report ?

Your Inbox has Stop Reports...

Inbox exercises >>>

FORMS

STOP REPORT #1

Narrative (Describe the circumstances that led to the Stop)

AT T/P/O SUSPECT DID SCREAM OUT WINDOW FOR HELP. WENT TO APT AND UPON INVESTIGATION SUSPECT HAD INJURIES DUE TO ASSAULT FROM WIFE. WIFE STATED SUSPECT CHOKED HER. UNABLE TO ESTABLISH PRIMARY AGGRESSOR AT SCENE. BOTH TAKEN TO PCT. LATER DETERMINED WIFE WAS PRIMARY AGGRESSOR AND SUSPECT WAS RELEASED FROM PCT.

Frisked/Searched/Weapon/Contraband Information

Was person frisked?
Select... YES

Was person searched?
Select... YES

Was weapon found?
Select... NO

Was other contraband found?
Select... NO

ASK CLASS:

Did this involve a Terry stop?

Why or why not?

How should they review this report?

What action should they take?

It did not involve a *Terry* stop. This started at Level 4, a cross complaint. Both individuals were taken to the precinct. The purpose of a Stop Report is to document a Terry stop and not a Level 4 voided arrest.

Unnecessary Stop Reports should not be voided. Supervisor should “accept” the report but note in the comments section that event started with an arrest and that report was prepared in error.

FORMS
STOP REPORT #2

Narrative (Describe the circumstances that led to the Stop)

AT T/P/O INDIVIDUALS WERE OBSERVED WALKING AT A FAST PACE TOWARD A FOOD DELIVERY PERSON RIDING ON A BICYCLE AND UPON NOTICING POLICE VEHICLE, INDIVIDUALS IMMEDIATELY TURNED AROUND AND WALKED IN OPPOSITE DIRECTION

Frisked/Searched/Weapon/Contraband Information

Was person frisked?
Select... YES

Was person searched?
Select... YES

Was weapon found?
Select... NO

Was other contraband found?
Select... NO

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

FRISKED DUE TO VIOLENT CRIME. SEARCH REVEALED NO WEAPONS.

INSTRUCTORS MUST DO MOCK SUPERVISION/ROLE PLAY

ASK CLASS: WHAT DO THEY THINK OF THE FIRST NARRATIVE? [On its face, this report does not support reasonable suspicion.]

One instructor should play the role of the supervisor and another instructor should play the role of the officer who prepared this report.

The supervisor instructor should ask open-ended questions (*i.e.*, what happened?) and should ask the class whether they have any additional questions for the instructor playing the role of the MOS who completed this report.

The instructor playing the role of the MOS who prepared this report should share additional information during the course of the conversation, including:

Recent robberies of delivery people by 2 males in this area; that he saw the two individuals he ultimately stopped trying to run into an apartment building behind the delivery person as he entered but they did not reach the door in time; that he then observed the two men wait/hide outside the building while the delivery person was inside; that he observed the two men watch the delivery person exit the building and get on his bike, and then they rushed toward the delivery person; that it was at that moment that he and his fellow officer stopped and frisked the two men. Upon feeling a hard object he thought was a weapon in the pants pocket of one of the men, he searched him and found a Swiss Army knife.

ASK THE CLASS: Now what do they think of the stop?

WHAT DO THEY THINK OF THE SECOND NARRATIVE REGARDING THE FRISK/SEARCH? If the first narrative had more details, the reference to the violent crime would be a start. But the narrative does not contain a basis for the search (feeling something hard/a possible weapon). A FRISK is the running of your hands on the *outside* of a person's

clothing to feel for weapons and only weapons. A SEARCH is when you go *inside*, i.e., a pocket, a bag. Under these circumstances, you may only search a specific area if you feel something during the frisk that you reasonably believe may be a weapon.

FORMS

STOP REPORT

CALLED REQUIRED 99:54

#3

Narrative (Describe the circumstances that led to the Stop)

MALE WAS OBSERVED CASING APARTMENT BUILDING IN THE VICINITY OF BURGLARY PRONE LOCATION

Frisked/Searching/Weapons/Contraband Information

Was person frisked?
Select... YES

Was person searched?
Select... NO

Was weapon found?
Select... NO

Was other contraband found?
Select... NO

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

SUSPICION OF VIOLENT CRIME

INSTRUCTORS MUST DO MOCK SUPERVISION/ROLE PLAY

ASK CLASS: WHAT DO THEY THINK OF THE FIRST NARRATIVE?

Again, have two instructors role play where they discuss the officer's observations, but this time the officer's observations will not support reasonable suspicion. In other words, the underlying stop itself was improper

This will give the instructors an opportunity to talk about how to fill out the supervisory review section (emphasize that the supervisor must accept and sign off on the Stop Report) and determine the appropriate follow up action.

FORMS STOP REPORT #4

Narrative (Describe the circumstances that led to the Stop)

AT T/P/O, PER C/W (UBER DRIVER), 3 INDIVIDUALS WHO WERE IN HIS CAR MUST HAVE TAKEN HIS WALLET (NO BARRIER TO FRONT SEAT IN CAR). UPON ARRIVAL AT DESTINATION, AFTER INDIVIDUALS PAID FARE AND LEFT, C/W NOTICED WALLET MISSING. 3 M/W MATCHING DESCRIPTIONS STOPPED AT NEARBY DELI. POSITIVE SHOW UP

Frisked/Searched/Weapon/Contraband Information

Was person frisked? YES

Was person searched? NO

Was weapon found? NO

Was other contraband found? NO

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

FRISKED FOR OFFICER SAFETY

ASK CLASS: What does class think of this report?

Could they be frisked on these facts while they were being held for the show up?

[Not on the facts provided because not a violent crime and there is no information about an admission of a weapon, a bulge indicative of a weapon, behavior that is indicative of a weapon, etc. I “frisked for my safety” is an insufficient basis by itself.]

FORMS STOP REPORT

Narrative (Describe the circumstances that led to the Stop) #5

RR OF F/W, 40's, INTOX, BLACK T-SHIRT, RED PANTS MENACING PEOPLE IN TOMPKINS SQ PARK NEAR AVE A AND 7TH ENTRANCE WITH A KNIFE. ARRIVED AT EXACT LOCATION AND OBSERVED SUSPECT INTOX, BLACK SHIRT, RED PANTS YELLING AT PEOPLE.

Frisked/Searched/Weapon/Contraband Information

Was person frisked?
Select... YES

Was person searched?
Select... YES

Was weapon found?
Select... YES

Was other contraband found?
Select... NO

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

BASED ON REPORT OF MENACING WITH A KNIFE, FRISKED SUSPECT AND FELT OBJECT IN R.F. JACKET POCKET THAT FELT LIKE A KNIFE. RECOVERED ONE GRAVITY KNIFE.

Have class review. [Finally a good one].

Body Camera Videos

For the final segment of the day, play selected series of body camera videos depicting real investigative encounters and have class evaluate the legality, professionalism and tactical soundness of the encounters according to instructor notes for the selected videos.

Instructors should also display mock narratives corresponding to the videos and have the class assess the narratives.

Videos will be added to the course material for this segment as they are identified, along with corresponding instructor notes.