

DeBour's Four Levels of Street Encounters

PEOPLE V. DEBOUR 40 N.Y. 2d 210

<u>Predicate</u>	<u>Permissible Response</u>
LEVEL 1 Objective Credible Reason	Approach to request information
LEVEL 11 Founded Suspicion	Common Law Right of Inquiry
LEVEL 111 Reasonable Suspicion	Stop and (if in Fear of Weapon), Frisk.
LEVEL 1V Probable Cause	Arrest and Full Search Incident

Specific Police Conduct

LEVEL 1

P.O. can ask non-threatening questions regarding name, address, destination and, if person carrying something unusual, police officer can ask about that¹.

Encounter should be brief and non-threatening. There should be an absence of harassment and intimidation.²

Can say "STOP" (If not "forceful")³

Can approach a stopped car.⁴

Can touch holster.⁵

Can not request permission to search.⁶

Can not cause people to reasonably believe they're suspected of crime, no matter how calm and polite the tone of the questions.⁷

LEVEL 11

Can ask pointed questions that would reasonably lead one to believe that he/she is suspected of a crime.⁸

Questions can be more extended and accusatory. Focus on possible criminality.⁹

Can request permission to search.¹⁰

Can not pursue.¹¹

Can not forcibly detain.¹²

LEVEL 111

Can forcibly detain¹³

Can frisk for weapons, if in fear.¹⁴

Can pull car out of flow of traffic.¹⁵

Can order defendant to lie on ground (for good reason)¹⁶

Can handcuff (for good reason)¹⁷

Can pursue.¹⁸

LEVEL IV

Can arrest and search incident.¹⁹

¹ People v. Hollman & Saunders 79NY2d181(1992)

² People v. Hollman, fn 1, supra.

³ People v. Bora 83NY2d531(1994)

⁴ People v. Harrison 57NY2d470 (1982)

People v. Ocasio 85NY2d982 (1995)

⁵ People v. Diaz 80NY2d950 (1992)

People v. Reyes 83NY2d945 (1994)

⁶ People v. Hollman, fn 1, supra.

⁷ People v. Hollman, fn 1, supra.

⁸ People v. Hollman, fn 1, supra.

⁹ People v. Hollman, fn 1, supra.

¹⁰ People v. Hollman, fn 1, supra.

¹¹ People v. Holmes 81NY2d 1056 (1993)

¹² Holmes, fn 11, supra.

¹³ CPL 140.50 Terry V. Ohio 392 US1 (1968)

¹⁴ Terry, fn 13, supra

¹⁵ People v. Ingle 36NY2d 413 (1975)

¹⁶ People v. Chestnut 51NY2d 14 (1980)

¹⁷ People v. Allen 73 NY2d 378 (1989)

¹⁸ People v Leung 68 NY2d 734 (1986)

¹⁹ U.S. v. Watson 423 US 411 (1976) Chimel v. Cal. 395 US 752 (1969)