

Chapter 2

Police Investigation: Stops, Searches, and Arrests

2.1	Scope of Chapter	2-2
2.2	Overview of Racial Profiling Concerns	2-3
2.3	Equal Protection Challenges to Police Action	2-4
	A. Equal Protection Claims May Strengthen Fourth Amendment Challenges	
	B. State and Federal Constitutions Guarantee Equal Protection of the Law	
	C. Elements of a Selective Enforcement Claim	
	D. Gathering Evidence to Support a Claim of Selective Enforcement	
	E. Burden of Proof and Burden Shifting	
	F. Remedy for an Equal Protection Violation	
2.4	Overview of Protections Against Unreasonable Searches and Seizures	2-19
2.5	Consensual Encounters	2-20
	A. Overview	
	B. Relevance of Race to “Free to Leave” Test	
	C. Consensual Encounters Between Officers and Pedestrians	
	D. Consensual Encounters at Home: The “Knock and Talk” Technique	
	E. Practice Tips: Challenges to Alleged Consensual Encounters	
2.6	Traffic and Pedestrian Stops	2-23
	A. Traffic Stops	
	B. The Fourth Amendment and Pretextual Traffic Stops	
	C. Challenging Checkpoints	
	D. The Fourth Amendment and <i>Terry</i> Stops	
	E. Challenging Proxies for Race Used to Support Reasonable Suspicion	
	F. Seizures in Reliance on Descriptions of Suspect’s Race	
	G. Equal Protection Challenges to Seizures	
	H. Types of Statistical Evidence Supporting Equal Protection Claims	
	I. Collecting Traffic Stop Data to Support Equal Protection Claims	

J. Information about Personal Impact of Equal Protection Violation

2.7 Other Selected Aspects of Warrantless Stops 2-43

- A. Questioning
- B. Pretextual Inventory Searches
- C. Vehicle Consent Searches
- D. Roadside Searches of Individuals
- E. Arrests

2.8 Beyond Litigation 2-51
