

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAENEAN LIGON, *et al.*,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 3/21/17

12 Civ. 2274 (AT)

**ORDER**

ANALISA TORRES, District Judge:

The Monitor has submitted recommendations regarding training to be given at roll call regarding enforcement activities in and near residences enrolled in the Trespass Affidavit Program (“TAP”). ECF No. 260. Plaintiffs object to the Monitor’s recommendation with respect to the voice-over script for slide 17 of the proposed training. ECF No. 261. In particular, Plaintiffs worry that the training “would permit officers who lack probable cause to believe a person is trespassing nonetheless to order the person to leave and then to use a failure to comply with that order to justify an arrest.” *Id.* at 1. Additional letters were filed by Defendants, Plaintiffs, and the plaintiffs in *Davis v. City of New York*, No. 10 Civ. 699. ECF Nos. 269, 271, 273.

In June 2016, the Court approved revisions to Patrol Guide (“P.G.”) 212-59, which sets forth the procedures governing interactions between the police and the public in and around TAP buildings. ECF No. 249. All parties supported the approval of these revisions. *Id.* at 6. The proposed voice-over script for slide 17 includes some but not all of the language in P.G. 212-59. The Court finds that the addition of language from P.G. 212-59 to the proposed voice-over script for slide 17 clarifies the probable cause requirement.

Accordingly, the Monitor’s recommendation is APPROVED with the following modification of the proposed voice-over script for slide 17:

Now let’s discuss how you can deal with a person who is uncooperative and won’t answer your questions, or where you can’t verify a person’s authority to be in the building.

At Levels 1 and 2, when individuals are free to walk away, a person’s decision to leave the building, remain silent, or refuse to provide information or identification when questioned by the police does not give you reasonable suspicion to stop or probable cause to arrest. Even at Level 3, you may detain the person but he or she is still not required to answer your questions.

**Remember, the burden of proving that an individual does not have authority to be in the building rests on the Police. The individual is not required to answer questions, not even about his or her authority to be in the building.**

If you suspect the person does not have authority to be in the building, but the person cannot or refuses to explain his or her presence in the building, and you are unable to verify the person's authority to be in the building, you may instruct that person that he or she must leave the building, and that refusal may result in arrest for Criminal Trespass.

However, you may only arrest the person if there is probable cause to believe that the person committed a trespass. A reasonable investigation is ordinarily necessary to determine whether probable cause exists. A person's refusal or inability to produce identification or provide information does not elevate the level of the encounter.

SO ORDERED.

Dated: March 21, 2017  
New York, New York



---

**ANALISA TORRES**  
United States District Judge