

# Stop and Frisk

## Balancing Crime Control with Community Relations



**COPS**  
Community Oriented Policing Services  
U.S. Department of Justice





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This project was supported by cooperative agreement number 2010-CK-WX-K019 awarded by the Office of Community Oriented Policing Services, U.S. Department of Justice. The opinions contained herein are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific agencies, companies, products, or services should not be considered an endorsement by the author(s) or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

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Recommended citation:

La Vigne, Nancy G., Pamela Lachman, Shebani Rao, and Andrea Matthews. 2014. *Stop and Frisk: Balancing Crime Control with Community Relations*. Washington, DC: Office of Community Oriented Policing Services.

ISBN: 978-1-932582-84-0

Published 2014



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## Letter from the Director

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Dear colleagues,

The COPS Office is proud to support the Urban Institute in publishing this guide, *Stop and Frisk: Balancing Crime Control with Community Relations*, as part of our mission to advance community policing. Within these pages, you will explore the origins of stop and frisk programs and the ongoing controversy surrounding these activities. Most importantly, you will find clear explanations of the precedence and criteria for legal stops and searches and see the inherent risk of combining police activities that require varying legal standards into one program or unit of work, as is the case with stop and frisk. This publication will help you identify the legal standard for each police activity and determine how each can be used to ensure public safety both legally and in a manner that strengthens public trust.

I am especially pleased we are releasing this publication as we celebrate both the 50th anniversary of the Civil Rights Act of 1964 and the 20th anniversary of the COPS Office.

As the first African-American director of the COPS Office, I can personally appreciate the advancement that both our society and law enforcement profession have made in terms of racial and ethnic equality in the last half century. As a father who must teach his 17-year-old son, a young man of color, what to do when stopped by the police, I also recognize how much work remains with regards to policing in a democratic society.

In his essay, “On Democratic Policing,” Jerome Skolnick wrote, “Order achieved through democratic policing is concerned not only with the ends of crime control, but also with the means used to achieve those ends.”

History has demonstrated time and time again that trust and confidence in the police are vital to ensuring public safety. But we know this trust can be undermined by programs such as stop and frisk when they have disparate impacts on communities and are perceived to be more of a threat to public safety than the crimes they were designed to prevent.

And we know public safety is measured not simply by the absence of crime but also by the presence of fairness and justice.

Today’s law enforcement leaders must remember that the ends never justify the means. The question of legality (Can I do this?) must be balanced with the question of legitimacy (Should I do this?). According to Tom Tyler, Yale Law School’s Macklin Fleming professor of law and professor of psychology, “There is a strong body of evidence that building legitimacy is a more effective way to ensure long-term support for and adherence to the law both in the general community and among people with criminal backgrounds.”

We hope this publication can help you guide your department in its efforts to maintain the confidence of your community while ensuring its safety. Let’s remember that the greatest deterrent to crime is not a neighborhood saturated with cops. It is a community alive with residents who trust their police.

Sincerely,



Ronald L. Davis, Director  
Office of Community Oriented Policing Services

## Acknowledgments

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The authors wish to acknowledge the practitioners, community members, and scholars who participated in the Urban Institute Roundtable on Stop and Frisk, which was held in September 2011 (see appendix A for a list of roundtable participants). Their invaluable contributions and insights on the topic shaped much of the content of this publication. We are also grateful to Urban Institute colleagues David Hayeslip for his critical review of the publication and Jeremy Levy for his copyediting assistance. Finally, this research would not have been possible without the generous support of our funders, the U.S. Department of Justice's Office of Community Oriented Policing Services. We would especially like to thank Mora Fiedler for her continued support throughout this project.





## Executive Summary

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### Defining stop and frisk

This guide uses the term “stop and frisk” to refer to agency-led, targeted, intensive application and employs “pedestrian stops” or “street stops” interchangeably to refer primarily to individual officers engaging in the routine use of stops and subsequent frisks and searches as part of everyday policing. However, officers can apply the principles covered throughout this guide to any type of pedestrian stop encounter.

The police practices of questioning, frisking, and searching citizens are well established and guided by legal precedents on the necessary preconditions required to engage in each of these acts lawfully. While stopping and questioning pedestrians is a routine police activity, frisking citizens can only be done lawfully on the basis of reasonable suspicion that the individual is armed and poses an immediate danger to the officer or the public. Searching an individual requires an even higher standard of probable cause for engagement in illegal activities. Each of these acts alone and in combination is designed to enable officers to question prospective suspects and witnesses, deter potential offenders, and apprehend active perpetrators.

In recent years, however, the use of these practices has taken on new meaning due to the application of “stop and frisk” in New York City and other urban jurisdictions, particularly in communities of color.<sup>1</sup> These jurisdictions have encouraged officers to stop and question pedestrians in specific high-crime areas as well as to increase the frequency of frisking these pedestrians. This more intensive use of stop and frisk has prompted questions and extensive debate about its legality and its effects on individuals and minority communities. The limited research conducted thus far indicates that while these more concentrated stop and frisk interventions have the potential to reduce crime, they may also negatively impact police-community relations and harm the legitimacy and efficacy of policing efforts. Given these findings and the heated public debate surrounding stop and frisk, today’s police executives must think critically about how the acts of stopping, questioning, frisking, and searching can best be used to achieve crime-control goals in a manner that minimizes their negative effects.

In the fall of 2011, the Urban Institute convened a roundtable with a wide array of police executives, practitioners, and researchers to develop a better understanding of both the challenges and opportunities surrounding the intensive use of stop and frisk (see appendix A for a list of participants). Prior to the roundtable, the attendees wrote a series of papers examining the use of this policing tactic, and at the roundtable they engaged in a wide-ranging discussion of the implications of intensive stop and frisk for public safety and police-community relations.

This guide draws upon the knowledge gained during the roundtable and research in the field to describe both the legality and impacts of agency-led intensive stop and frisk strategies and to explore the ways in which individual officers, with guidance from their leadership, can employ their stop, frisk, and search activities in a manner that is lawful, responsible, and effective.

To be clear, this publication is not an instructional manual on how to engage in stop and frisk, and it does not provide legal guidance on the topic; rather, its purpose is to help law enforcement officials think carefully about the ways in which these practices should be employed in the interests of promoting public safety while developing and reinforcing strong, mutually beneficial ties between police and the community. The following is a summary of the content covered in this guide:

## Background

*Terry v. Ohio* (1968) first established that pedestrian stops and frisks were constitutional. This case provided that officers only conduct stops when they have “reasonable suspicion” that the pedestrian in question is connected to criminal activity in some way. During a stop, *Terry* stipulated that an officer may conduct a limited search, or frisk, of the pedestrian during a stop if he or she believes the pedestrian to be carrying a weapon that could either endanger the officer or the general public.

Subsequent court cases expanded upon the concept of reasonable suspicion. Today, officer-level observations, tips from informants, and other factors such as individuals’ appearance and behavior can all contribute to “reasonable suspicion.”

Although *Terry* specified that law enforcement officers were to conduct frisks for the sole purpose of detecting weapons that posed a threat to officer or public safety, subsequent case law has also allowed officers to confiscate drugs or other illicit substances found during legally executed frisks and enter them as evidence.

## Outcomes of stop and frisk

The widespread use of stop and frisk in specific high-crime communities is intended to prevent crime by deterring individuals from carrying weapons or narcotics. By contrast, individual officer’s use of stop, question, frisk, and search activities is intended to protect the officer’s safety and that of the public.

While stop and frisk may have contributed to reductions in crime in recent years,<sup>2</sup> the long-term, potentially negative effects of the practice have not been studied. Research does show that pedestrians who are stopped and frisked by police officers often view the experience as unjustified and feel that they are subject to unfair and overly aggressive treatment. The negative effects of stop and frisk may be most pronounced for minorities:

- Stop and frisk may disproportionately impact minority populations, even once relevant background differences are taken into account.
- Minorities experience police stops more negatively than Whites and are more likely to perceive that officers conduct stops unfairly.<sup>3</sup>

Citizens’ views of the police strongly contribute to their willingness to cooperate with and empower law enforcement.<sup>4</sup> Therefore, minimizing the negative effects of stop and frisk is crucial for overall police effectiveness and is especially important for improving relations with communities of color.

## Stop and frisk and community policing

Both legal precedent and the literature to date raise questions about the wisdom of employing stop and frisk as an intensive crime deterrence strategy. While these cautionary findings may lead some police executives to discourage officers from stopping pedestrians, doing so would greatly inhibit the ability to enforce the law and enhance public safety. Moreover, hot spot policing strategies, whereby police are deployed in specific high-crime areas, may give the appearance of stop and frisk by nature of the higher ratio of officers to citizens in those locations.

These considerations suggest that police leaders should focus on training and accountability measures that view police acts of stop, question, frisk, and search in the context of both case law and community policing. Doing so can help ensure law enforcement officers interact with citizens in a lawful, respectful manner that is ultimately beneficial to the community as a whole. Strong leadership from the police executive and responsibility at the level of the individual officer are both crucial to this approach.

The role of the police executive should include the following:

- Communicate clear expectations within the department, and reinforce a culture of ethical and respectful behavior.
- Recruit officers who are service-oriented, representative of the communities they serve, and diverse in terms of their backgrounds and perspectives.
- Communicate with and solicit input from both internal and external stakeholders.
- Build accountability through measures such as documenting police interactions with citizens, analyzing data, and holding officers responsible for their actions.
- Train officers in the proper procedures for conducting stops and frisks and provide opportunities for continuing education.
- Assign officers to patrol the same neighborhoods to build relationships with the community.

The responsibilities of the individual officer should include the following:

- Have sound justification before deciding to stop an individual.
- Communicate clearly the logic behind the stop and walk the individual through the process.
- Employ frisk and/or search activities only if legal guidelines justify doing so.
- Treat individuals respectfully during stops.

## Conclusions

If implemented correctly, stopping—and potentially frisking or searching—pedestrians has the potential to reduce crime; however, the manner in which some agencies engage in this practice today may yield an adverse impact on police-community relations in high-crime communities due to its potentially discriminatory and inappropriate application.

To minimize the negative outcomes associated with stop and frisk, police departments should rethink who is engaging in this practice and whether it is truly justified. Employing a community policing approach to the standard police tools of stop, question, frisk, and search can help officers take into account the needs and interests of the communities where police presence is most prevalent. Doing so will help improve public perceptions of law enforcement, which may bolster police effectiveness over time.

Police departments and researchers must also collaborate to improve law enforcement's and the public's understanding of how pedestrian stops are employed in different contexts and regions across the country, as well as to identify the best practices currently in use.



## Introduction

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Law enforcement agencies employ a variety of tools to combat crime. Some of these tools are new and driven by technological advances; others represent long-standing police practices. While pedestrian stops, and the frisks or searches that may accompany them, fall into the latter category, recent shifts in the way police conduct and engage in stops and frisks have prompted renewed public attention in recent years. In addition to police employing stops as part of their routine work, police departments are increasingly concentrating this practice in high-crime communities throughout the United States as a specific deterrence strategy commonly referred to as “stop and frisk,” which conflates the two legally separate actions of stopping and frisking individuals into one combined tactic. This intensive, place- and people-based use of police stop, question, frisk, and search powers has sparked widespread debate on its legality and fairness, as evidenced by protests, lawsuits, and media coverage on the topic, especially in New York City.

While the police powers of stopping and frisking individuals were initially conceived of as tactics for responding to specific instances of observed criminal behavior and perceived threats to officer safety, the intensive use of stop and frisk is intended to discourage crime more generally. The theory underlying the intensive use of stop and frisk is that this deterrence strategy prevents offenders from carrying weapons and narcotics by increasing the perceived risk of arrest, thereby reducing violence and increasing officer safety. However, the constitutional grounds for this intensive application of stop and frisk activities are questionable, at best, as the legal precedent for conducting a frisk is based not on its potential deterrent effect but rather on the probable cause that the person stopped is armed and dangerous.

By using stops and frisks to deter future criminal activity rather than to respond to criminal conduct that is already underway, law enforcement agencies risk violating the Fourth Amendment’s requirement that pedestrian stops occur in response to reasonable suspicion that a given individual is engaged in criminal activity. Furthermore, by targeting specific communities through stop and frisk tactics, stop and frisk can lend itself to discriminatory—and unconstitutional—policing that is reliant on profiling and stereotyping, potentially violating the Fourteenth Amendment’s equal protection guarantee. Finally, stop and frisk as a deterrence strategy blurs the line between the two legally distinct policing actions of stopping and frisking individuals, leading to further Fourth Amendment concerns.

Aside from the legal implications of stop and frisk, research findings are mixed on whether the targeted use of this tactic has actually contributed to reductions in crime. Furthermore, the theory behind stop and frisk neglects to account for the unintended, potentially negative impacts this practice can have on community perceptions of law enforcement.

Although little is known about how pedestrian stops affect those who are subject to them and the larger community in which they take place, the limited research that does exist on the topic suggests that the intensive use of stop and frisk can harm police-community relations, possibly reducing the crime-control impact of this policing strategy in the long run. Thus, while police officers can use this well-established tool to combat crime and promote officer safety, the long-term effects of their targeted, intensive use in high-crime communities remain up for debate.

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This publication is intended to be a launching point for new initiatives and demonstration projects designed to serve the dual interests of crime control and police-community partnerships.

Given the potential for stop and frisk to result in negative outcomes and the heated context currently surrounding its implementation, law enforcement agencies must think strategically about how to best guide stop, question, frisk, and search activities. Especially in times of limited resources, police departments must engage in strategically sound practices that do not conflict with—and that ideally enhance—the public’s attitude toward law enforcement.

This guide synthesizes current knowledge from research and practice on stop and frisk to inform law enforcement and the larger community of the contexts in which this practice is appropriate and how it can be conducted in a way that achieves crime control goals while preserving community relations.

The guide begins by defining the various types of pedestrian stops and describing the legal precedents behind their use. The second section covers the theory behind stop and frisk, presenting relevant research findings on its effects on crime rates and discussing the approaches that law enforcement can take to measure this relationship accurately. This section then reviews the known potential outcomes of stop and frisk—both intended and unintended, positive and negative. Central to this discussion are the theoretical and demonstrated impacts that stop and frisk has on individuals and communities. The discussion concludes that the targeted, intensive use of stop and frisk for the purpose of frisking large volumes of pedestrians in high-crime communities is both legally questionable and potentially detrimental to both police-community relations and the achievement of public safety goals.

The third part of this guide explains how individual officer use of stop, question, frisk, and search, when implemented lawfully and in the context of community policing, may minimize its negative impacts on individuals and communities while boosting police effectiveness overall. It discusses specific actions that law enforcement agencies can take to ensure that officers are

- better trained in knowing when and under what circumstances stops (and subsequent frisks or searches) are appropriate, legal, and well-justified from a crime control perspective;
- held more accountable for following those procedures;
- required to document and describe each pedestrian stop conducted along with the reasons and context behind them.

This section also describes techniques that police officers and executives can use to improve interactions with the community while conducting pedestrian stops. These methods include explaining the nature and purpose of pedestrian stops, inviting community input and creating forums for citizen complaints, and formalizing that input through the use of citizen review boards.

This publication concludes with a discussion of the questions that remain regarding the use and impact of pedestrian stops, describing the necessary field work, practitioner partnerships, and research efforts required to answer those questions. Doing so can support effective crime control strategies that are consistent with the spirit of community policing. Indeed, this publication is intended to be a launching point for new initiatives and demonstration projects designed to serve the dual interests of crime control and police-community partnerships.

## The controversy

The practice of stop and frisk has become a hot-button policing issue in recent years. Much of the controversy surrounding stop and frisk is focused on the New York Police Department's implementation of the tool. However, given that any police department seeking to implement hot-spots policing strategies can potentially use stop and frisk, it is a critical, timely, and relevant policing issue for jurisdictions across the country, particularly those representing densely populated urban areas.

The media and public have extensively criticized New York's stop and frisk policy for being excessive, abusive, and racially discriminatory; for example, a poll conducted by the *New York Times* found that a majority of Black residents in New York felt the practice contributed to the harassment of innocent people,<sup>5</sup> while another analysis found that police used force in over a fifth of the stops they conducted.<sup>6</sup>

Stop and frisk has mobilized a variety of actors to come forth against the tactic, including city council members, minority community leaders, and civil rights groups such as the Center for Constitutional Rights (CCR) and the New York Civil Liberties Union (NYCLU).<sup>7</sup> However, former New York City Mayor Michael Bloomberg and the New York Police Department (NYPD) Police Commissioner Raymond Kelly have publicly defended the practice for reducing crime rates.<sup>8</sup> In June 2012, elected officials such as Christine C. Quinn, the City Council speaker, and Scott M. Stringer, the Manhattan borough president, joined together with thousands of civilians in a silent march to protest stop and frisk,<sup>9</sup> and a variety of media outlets covered this event.

Stop and frisk has attracted attention in other cities besides New York. In the summer of 2012, for example, San Francisco's Mayor, Ed Lee, announced he was considering implementing a stop and frisk policy in the city. After receiving criticism that stop and frisk would lead to racial profiling from a variety of groups, including San Francisco's Board of Supervisors, Mayor Lee ultimately abandoned the proposal and decided to focus on other crime-control approaches.<sup>10</sup>

In Philadelphia, the city's stop and frisk policies came under fire through litigation filed by the ACLU of Pennsylvania and the law firm Kairys, Rudovsky, Messing & Feinberg that held the Philadelphia Police Department was using race and ethnicity to stop individuals without relying on other indicators of criminal involvement. This lawsuit resulted in a settlement between the ACLU of Pennsylvania and the city, requiring the Philadelphia Police Department to make changes to its stop and frisk policy that included recording data on stops and frisks and creating a monitoring system to review the data.<sup>11</sup>

New York's stop and frisk policy has been curtailed through major lawsuits over the past two years that have further contributed to the debate surrounding this high-profile policing tactic. In October 2012, the federal court began to investigate the charge that the NYPD has systematically engaged in unconstitutional stops of the city's residents, especially its minority residents, in the high-profile case *Ligon v. City of New York*. The case involves a lawsuit against the Trespass Affidavit Program (TAP), which is a component of the NYPD's stop and frisk program that permits police officers to patrol private apartment building grounds and public spaces (e.g., hallways and common areas).<sup>12</sup> In early January 2013, a federal judge ruled the Trespass Affidavit Program was unconstitutional in its current form and that police officers would need better justification for stops on private apartment building property to be considered constitutional.<sup>13</sup>



The most extensive legal action taken against stop and frisk is the recent class-action lawsuit *Floyd v. City of New York*, which the Center for Constitutional Rights filed against the NYPD for engaging in unconstitutional stops and unfairly targeting minorities through racial profiling. The trial for this case began in March and concluded in late-May 2013. In June 2013, the U.S. Department of Justice provided strong support for the creation of an independent monitor to oversee the reform of stop and frisk in the city in the event the judge found the practice to be unconstitutional.<sup>14</sup>

In August 2013, U.S. District Court Judge Shira Scheindlin issued the ruling to *Floyd v. City of New York*; she held that New York City's stop and frisk policy violated the Fourth and Fourteenth Amendments of the U.S. Constitution by disproportionately targeting Black and Hispanic New Yorkers. Judge Scheindlin created the position of an independent monitor to oversee various reforms to address the unconstitutionality of stop and frisk, all of which will require approval from the court. Her ruling called for the monitor to propose and direct the implementation of a set of immediate reforms to the NYPD's stop and frisk practices, which include revamping training materials to prohibit racial profiling; improving supervision, monitoring, discipline, and documentation of stops; communicating the outcome of the case and the need for reform within the

NYPD; and pilot-testing the use of body-worn cameras by police officers. Judge Scheindlin also called for a broad array of stakeholders—such as individuals from communities affected by stop and frisk; members of religious, advocacy, and grassroots organizations; elected officials and community leaders; and NYPD representatives—to participate in a “Joint Remedial Process” to develop additional reforms.<sup>15</sup>

In the wake of New York's historic court ruling in *Floyd*, renewed debate on the legality, fairness, and use of stop and frisk erupted in New York and across the country. Mr. Bloomberg referred to the ruling as a “dangerous decision” that would result in more gun violence and stated his plans to appeal it.<sup>16</sup> The former mayor's administration requested that the court halt the ruling during the appeals process, pointing out that the number of stops in New York was already on the decline and that body cameras may pose privacy threats.<sup>17</sup> At the end of October 2013, a federal appeals court complied with the city's request and halted all of the reforms put forth by Judge Scheindlin in *Floyd*. The administration then requested that the court vacate the ruling in *Floyd*, which the court refused. After Mayor Bill de Blasio took office, he and the plaintiff's counsel reached an agreement that the city would withdraw its appeal of the case in January 2014, opening the way for reforms to begin.<sup>18</sup>

In August 2013, Mr. Bloomberg also vetoed two related bills targeting stop and frisk. The City Council overrode his vetoes, leading to the passage of two new laws that further serve to limit the NYPD's policing powers. The first establishes an inspector general to review and monitor the police department's practices, a position separate from the monitor established through *Floyd*. The second law makes suing for racial profiling easier for New Yorkers in state court.<sup>19</sup>



Taken together, the combination of lawsuits, media accounts, new laws, public statements, and protests related to stop and frisk all indicate that this is a highly controversial policing tactic whose role and existence is currently being questioned from all sides. If stop and frisk policies continue to be perceived as unfair or unconstitutional, they will likely lead to further outcry and threaten relationships between law enforcement and minority communities. Given this political backdrop, police executives would be well advised to revisit their policies and practices associated with pedestrian stops regardless of whether they are engaging in targeted stop and frisk strategies. Doing so will mitigate the community's negative perceptions of stops while minimizing the harms associated with their misuse.

## Defining stop and frisk

To examine the ways in which pedestrian stops can be conducted justly and effectively, it is first necessary to understand the context in which they operate. Pedestrian stops exist within the larger category of police-citizen encounters that can be divided into two general types: citizen-initiated encounters and police-initiated encounters. Citizen-initiated encounters—which include calls for service, either to report a crime or to request assistance—rarely result in handcuffing, arrest,<sup>20</sup> or use of force<sup>21</sup> on the part of the police. However, police-initiated encounters, which include stops that occur in the absence of a crime in progress, may occasionally result in a very different experience for citizens, including a frisk, full search, and potentially an arrest.

The two main categories of police-initiated stops are pedestrian stops (also referred to as street stops) and motor vehicle stops. According to the Bureau of Justice Statistics, the most common reason why a citizen had contact with police in 2008 was being a driver in a traffic stop, which constituted 44 percent of all police-citizen contacts.<sup>22</sup> Given that motor vehicle stops are more common than pedestrian stops, they have been researched more thoroughly, and more is known about them.

Both types of stops can also differ in the types of effects they can have on citizens. From a citizen's perspective, being stopped by a police officer in person may be a very different experience to getting stopped in a car, as simply talking to a police officer is a more public event due to the visibility of the interaction to bystanders. Conversely, citizens will likely perceive a search of their body following a pedestrian stop to be much more invasive than a search of their vehicle.

Within the category of pedestrian stops, there is also significant variety in definitions and tactics. Well-established legal precedent authorizes a law enforcement officer to stop a pedestrian briefly for investigatory purposes if the officer reasonably suspects that the pedestrian is engaged in criminal activity. When an officer makes the additional, independent determination that there is reasonable suspicion that the stopped individual is armed and dangerous, the officer may also conduct a limited pat-down search, often called a “frisk,” for weapons, to protect the officer's safety.

In certain cases, the pedestrian stop encounter can also include a more extensive search, which is distinct from a frisk. Frisks are considered “limited searches,” during which an officer is allowed only to pat down a pedestrian with the intent of discovering weapons. Because frisks are contained in this way, the officer does not need substantial evidence to

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conduct them. Searches, on the other hand, are more invasive; to conduct a full search of an individual's person and/or property, officers must have probable cause, a search warrant, or consent from that individual. Given these distinct criteria for stops, frisks, and searches, stops that occur because an officer suspects an individual to be involved in illegal activity may not necessarily conclude in any type of search activity.

In recent years, some law enforcement agencies have adopted a practice of using pedestrian stops and pedestrian searches in a programmatic manner. Under this approach, sometimes referred to as “stop and frisk,” officers are encouraged to systematically stop, question, and frisk pedestrians, especially in high-crime neighborhoods. This practice is based on the notion that if individuals face an increased risk of being stopped and searched by a police officer, potential offenders will be discouraged from carrying weapons or narcotics. Thus, whereas traditionally conducted stops or searches are a response to observed indications of criminal behavior or a perceived threat to officer safety by a *specific individual*, “stop and frisk” promotes the use of pedestrian stops and searches as a tactic for deterring future criminal activity rather than as a tool for interrupting specific crimes in progress. This targeted use of stop and frisk likely has unique implications both for crime and for the public's perceptions of law enforcement in areas where it is conducted.

#### Summarizing the criteria for legal pedestrian stops

**Stop:** For a law enforcement officer to stop a pedestrian, he or she must have “reasonable suspicion” that the pedestrian in question is engaged in criminal activity. This suspicion can be based on facts observed by the officer; observations reported by informants; and a combination of behavioral, probabilistic, or profiling factors that the officer can articulate and that take into account the “totality of circumstances” surrounding a stop. An anonymous tip can also form the basis of reasonable suspicion as long as it is used in combination with other observations by the officer. Furthermore, evasive behaviors can be grounds for reasonable suspicion if other factors that indicate involvement in crime are also present.

**Frisk:** An officer can conduct a frisk, or limited search, during a stop if the officer considers a pedestrian to have a concealed weapon and pose a threat to the public or to the officer who stopped him or her. During a properly executed frisk focused on a search for weapons, officers can confiscate uncovered drugs or other illicit substances, which can form the basis for charges against an individual and which courts can use as evidence in criminal proceedings.

**Search:** An officer must obtain consent from an individual before carrying out a full search, which is more invasive than a frisk. If an officer does not obtain consent, he or she must have a warrant or probable cause that a search is necessary without a warrant before conducting a full search of an individual's person and/or property. This standard is more stringent than the reasonable suspicion standard for stops and frisks.

## Constitutionality and Legal Precedents

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The development of the constitutional framework for law enforcement to conduct pedestrian stops began in 1968 with the first U.S. Supreme Court case concerning pedestrian stops, *Terry v. Ohio*.<sup>23</sup> In this case, the Supreme Court ruled that a police officer could stop an individual on the street if the officer has “reasonable suspicion” that the individual is connected to criminal activity in some way. This suspicion must be grounded in facts that are the product of personal observation and that the officer could articulate upon questioning. According to the Supreme Court’s holding in the case, an officer would not be justified in stopping a pedestrian who merely appeared to be out of place or generally threatening, unless the officer could point to particular, observed facts that would provide grounds for reasonable suspicion.

*Terry v. Ohio* further held that an officer may conduct a limited search, pat down, or frisk, of a pedestrian if that officer has a reasonable suspicion that he poses a threat either to the officer or others. A frisk is the only search activity permitted through reasonable suspicion in *Terry*’s reasoning and must be limited in scope and focus only on potential threats to personal safety. Frisks that go beyond a necessary pat down to determine whether a pedestrian is armed and dangerous are not supported by *Terry*.<sup>24</sup>

While subsequent cases expanded on definitions and concepts put forward in *Terry*, the case remains the seminal authority on pedestrian stops; even today, many practitioners refer to pedestrian stops as *Terry* stops. Supreme Court cases decided in the wake of *Terry v. Ohio* affected pedestrian stops in two main ways: (1) they broadened the definition of reasonable suspicion, and (2) they expanded on the types of police practices that are constitutionally permissible for officers to employ when stopping or frisking civilians.

Although *Terry v. Ohio* considered reasonable suspicion based only on an officer’s personal observation, subsequent case law has expanded the potential sources of reasonable suspicion to include reported observations by informants and behavioral, probabilistic, or profiling

### Case law in practice

An officer who observes a pedestrian pacing back and forth past a car and peering into its windows may reasonably suspect him of preparing to break in and enter it.

Two pedestrians seen handing off an unmarked parcel may be stopped by an officer who suspects them of drug trafficking.

An officer observes a pedestrian who is behaving in a threatening manner and appears to have a weapon strapped to his ankle under his jeans. That officer may frisk the pedestrian but may not require the pedestrian to remove any items of clothing.

factors that extend beyond an officer's personal observation. For example, in 1972, the Supreme Court held that an officer receiving a tip from a known informant that an individual is engaging in criminal activity may then act on reasonable suspicion to stop that pedestrian.<sup>25</sup> A frisk of that pedestrian may follow if the officer observes additional articulable facts suggesting that the pedestrian may pose a threat. The court later held that an anonymous tip may also help to serve as the basis for reasonable suspicion, but only in conjunction with other observations or facts gathered by an officer rather than on its own.<sup>26</sup>

Police officers can cite other types of information as the foundation for reasonable suspicion beyond their personal observations or tips from an informant. In 1989, the Supreme Court clarified that reasonable suspicion can be derived from "the totality of the circumstances" surrounding a stop and that those circumstances can include information that is probabilistic or profile-based.<sup>27</sup> This means that non-behavioral cues such as appearance may help provide the basis for reasonable suspicion. Even if a pedestrian's characteristics or behaviors cannot be used as a basis for a stop on their own, traits matching the profile of a particular kind of offender can justify stopping and searching a person. According to *Illinois v. Wardlow*, an individual's evasive actions may also be grounds for reasonable suspicion when taken in conjunction with other factors that may suggest involvement in crime. In this case, for example, stopping a pedestrian fleeing a high-crime area was upheld as constitutional.<sup>28</sup>

One of the most controversial aspects of pedestrian stops is the increase in drug possession arrests that follow frisks. The Supreme Court addressed this issue in 1993 when it affirmed that drugs or illicit substances found inadvertently in the course of a properly limited Terry stop and frisk may, under certain circumstances, be used as grounds for arrest and

#### Case law in practice

An officer receives an anonymous tip that a pedestrian is armed and preparing to make a drug run. That officer can stop the pedestrian only if he personally observes her engaging in other suspicious behavior. A similar tip *from a known informant* can justify a frisk, regardless of any observed suspicious behavior.

If a police officer notices someone at the airport engaging in numerous suspicious behaviors indicating involvement in drug activity—such as paying for plane tickets from a roll of twenty dollar bills, traveling to a destination known for illegal drug trafficking for an unusually short visit, appearing nervous, and wearing attire typical of drug dealers—an officer can reasonably suspect the individual and stop him or her. Any one of these probabilistic factors would be insufficient to justify a stop on its own, but taken together, they create a case for reasonable suspicion.

A police officer can stop a pedestrian who fits the description on a "wanted flyer," as long as that flyer was created on the basis of articulable facts.

Source: *U.S. v. Hensley*, 469 U.S. 221, 1985.



be admitted into evidence in criminal proceedings. While the court maintained that frisks may be conducted only with the intent of discovering weapons, it also held that items encountered during a frisk that clearly appear to be contraband due to their size or shape may be seized as evidence. However, if an officer does not have probable cause to believe that an item encountered during a frisk is contraband, she may not explore the item further or confiscate it as evidence.<sup>29</sup>

The numerous Supreme Court cases concerning pedestrian stops inform several important issues concerning police practice, providing guidance on when officers may act on the basis of reasonable suspicion that a citizen was, is, or intends to be engaged in criminal activity. When an officer formulates this suspicion on the basis of articulable facts (not all of which the officer must personally observe), the courts have granted officers significant latitude to detain and search that pedestrian and his or her relevant surroundings. In some cases, state laws can permit the officer to request identifying information from the pedestrian. Once an officer stops a pedestrian, the law holds that the officer may subject the pedestrian to a frisk of his or her body or property if the officer reasonably believes that the pedestrian is carrying weapons that may pose a threat either to the officer's safety or that of the general public.

Significant questions exist regarding whether the programmatic and proactive approach to pedestrian stops and searches, as encompassed in many jurisdictions' stop and frisk strategies, complies with the Constitution and other laws. First, by initiating pedestrian stops to deter criminal behavior rather than respond to observed criminal conduct, law enforcement agencies risk violating the Fourth Amendment, which requires that a pedestrian stop be predicated on *individualized* reasonable suspicion that the stopped individual is engaged in criminal activity. Second, to the extent that stop and frisk practices involve selectively targeting certain communities for increased pedestrian stops and searches, those practices potentially compromise the Fourteenth Amendment's equal protection guarantee. The intensive, concentrated use of stop and frisk encourages officers to initiate stops and searches based on general crime rates and location rather than on individuals' conduct. This by its nature facilitates reliance on profiling and stereotyping, which in turn increases the risk of unconstitutional policing.

More fundamentally, stop and frisk's approach to police-pedestrian encounters—and indeed, the very term “stop and frisk” itself—is at odds with well-established constitutional law because it encourages a practice of conducting pedestrian stops and searches in tandem, regardless of whether the additional justification necessary to conduct a lawful frisk exists

#### Case law in practice

If an officer conducts a pedestrian stop and frisk and feels an item that clearly appears to be a syringe when patting down the outside of that pedestrian's jacket, the syringe can be confiscated and entered into evidence.

If an officer conducts a pedestrian stop and frisk and feels the contours of an item that he cannot clearly identify as contraband, the officer may *not* remove the item or enter it as evidence.

during a stop encounter. The constitutional standards that govern when an officer may conduct a stop are different from those that govern when an officer may frisk an individual; however, stop and frisk strategies erode this firmly established distinction. In fact, the stated purpose of stop and frisk strategies is to deter individuals from carrying weapons or narcotics out of fear they will be searched.

Thus, both in name and in practice, stop and frisk relies on an officer acting as if the legal basis to stop a person is sufficient grounds to frisk that person as well. The blurring of this line between stops and frisks leads to further tension between officer action and Fourth Amendment rights, as the discovery of contraband during a pat-down is often given as the justification for a more invasive search. In this manner, stop and frisk advances an approach to pedestrian encounters that stands in direct tension with applicable law and facilitates unconstitutional police conduct.

## Theory and Practice

Law enforcement may consider using pedestrian stops as part of routine police work. Recently, some agencies have chosen to employ it to combat crime in specific high-crime communities (“hot spots”) and/or communities in which a particular crime problem has become more pervasive. Both applications have the shared goal of promoting officer safety and reducing, preventing, and/or disrupting criminal activity among individuals whom officers believe are involved in crime. In high-crime communities, policy makers and law enforcement expect the targeted use of stop and frisk to magnify these crime-control outcomes in the areas where they are most needed.

While prior research suggests that these types of targeted stop and frisk interventions may have the potential to produce positive public safety outcomes, such outcomes are far from certain. Much depends on the way in which officers conduct stops and what types of places and people they target. Collecting information on these factors—which may vary by individual officer, precinct, and/or unit—can help department supervisors determine if stops and frisks or searches are well justified, if officers are following departmental policies and practices, and if stops are producing their intended crime control impact. Based on these factors, stops may have the possibility of yielding positive impacts on public safety or negative impacts on police legitimacy and relations between police and residents.

### Theoretical basis of the practice

Proponents of targeted stop and frisk argue that the practice is supported by deterrence theory—that individuals will be less likely to commit crimes if law enforcement increases the likelihood, severity, and swiftness of punishment.<sup>30</sup> General deterrence theory suggests that when police increase their presence in high-crime neighborhoods, would-be criminals will perceive the risk of apprehension as too great, prompting a decline in criminal activity. Specific deterrence theory posits that upon being stopped and searched, individuals will either desist, take their criminal behavior elsewhere, or be apprehended by the police.<sup>31</sup>

*“We don’t know whether stop and frisk activities actually deter crime, even though that is the major reason given to support the practice in New York. We need research to understand the validity of that claim.”*

– Jeremy Travis, President  
John Jay College of Criminal Justice

In the context of stop and frisk, deterrence theory would predict that as the number of pedestrian stops increases, overall rates of arrest and weapons seizure will decrease. This is because citizens will theoretically desist from carrying weapons for fear of being arrested, either because they themselves were previously stopped or because they became aware of the increasing number of stops in their community.



Ryan Rodrick Beller / Shutterstock

Stop and frisk is also used as a component of “hot spot” policing, which employs a targeted law enforcement presence in high-crime areas.<sup>32</sup> Hot spot policing strategies are based on the observation that crime tends to cluster around the same places where the same people are concentrated.<sup>33</sup> Thus, the targeted use of stop and frisk is designed to have a specific impact on crime in a specific place. In general, the targeted approach of hot spots policing can be very effective in reducing crime and disorder.<sup>34</sup> Hot spots policing can even reduce the incidence of violent crime; a recent study shows that implementing foot patrols in specific localities with high rates of violent crime dramatically decreased the level of violence in those areas.<sup>35</sup>

### **Intended outcomes**

Two key measures of stop and frisk’s success are the number and type of contraband seizures (often referred to as “hits”) and the number of arrests. Critics of targeted stop and frisk contend that low hit rates indicate the practice has not achieved the desired outcome because officers are stopping people who are not committing any crimes. Proponents of stop and frisk counter that low hit rates demonstrate that the presence of officers conducting stops is successfully deterring offenders from carrying weapons, narcotics, and other contraband. If people believe the police will likely stop them, they are less likely to carry a weapon in public; thus, the low hit rate indicates that pedestrian stops produce a favorable outcome. This makes research on the crime control impact of street stops difficult.

Researchers have conducted studies to examine the varying impact that stop and frisk can have on crime and possession of contraband; however, their efforts have yielded mixed results. An early study conducted in San Diego on the impact of field interrogations, which consisted of stopping, questioning, and occasionally searching pedestrians, found evidence for the effectiveness of this tactic. To a certain extent, field interrogations proved to be a deterrent in localized areas for crimes such as burglary and petty theft.<sup>36</sup>

More recent studies of the impact of targeted stop and frisk interventions on crime have focused on New York City. A study by Smith and Purtell in 2008 found that increased stop rates led to decreased rates of robbery, burglary, car theft, and homicide in New York City. However, the authors found that stops had no significant effect on rates of assault, rape, or grand larceny, and they noted that the positive impact of pedestrian stops had declined over time for most of the crimes they investigated.<sup>37</sup>

To address some of the methodological limitations of Smith and Purtell’s study, Rosenfeld and Fornango<sup>38</sup> conducted a study on the impact of stops on crime rates in New York City in 2011 that accounted for other relevant variables such as race and levels of economic deprivation. To better isolate the impact of stop rates on subsequent crime rates, their study also addressed the possibility that both stop rates and crime rates could affect each other simultaneously. In contrast to Smith and Purtell’s findings, Rosenfeld and Fornango’s analysis did not find that increases in stop rates had a strong effect on decreases in burglary or robbery rates between 2003 and 2010. The conflicting results of these studies suggest that further

research on stop and frisk is necessary to have a better understanding of how this policing tactic affects crime rates.

Given the connection between street stops and hot spot policing, Weisburd, Telep, and Lawton, again studying New York City, examined the degree to which stops targeted in crime hot spots have a positive impact on crime in those geographic areas. They found that stop and frisk rates were strongly concentrated in the street segments and intersections of New York City that had the highest crime rates and that stop and frisk may have played a role in reducing crime through hot spots policing. However, the study did not directly attribute the crime decline to stop and frisk practices; this study, like many other studies that use NYPD stop and frisk data, had important limitations due to the nature of police data.<sup>39</sup>

The competing methods and conflicting findings associated with studies of stop and frisk suggest that the best approach to measuring outcomes of stop and frisk is to do so over time and in conjunction with changes in its strategies. For example, if police officers are increasing the number of street stops in an area where recent shootings and/or other violent crime occurred, it would be important for the department to determine if people are still carrying weapons in that neighborhood. If, from the moment the police begin increasing street stops, they observe a decline in the number of gun seizures over the following weeks, this would suggest that stops are deterring people from carrying guns in the community. In this case, a declining hit rate may be viewed as a favorable outcome, as opposed to an indication that the stops are not working.

Tracking other information related to pedestrian stops and gun seizures (e.g., arrests, crime incidence, and calls for service) would enable police crime analysts to identify the temporal order of events. This would allow the police to determine the degree to which stop and frisk is achieving its desired outcome (i.e., an initial increase in pedestrian stops associated with a spike in arrests and seizures, followed by a drop in both, along with a comparable decline in reported crimes and calls for service).

In addition to examining seizures and arrests stemming from stops, police should consider the broader context of criminal activity. Measuring outcomes of stops on crime should help distinguish the different types of crimes. For example, an increase in stops should be associated with a reduction in shots fired and other crimes involving firearms. Likewise, narcotics confiscations should ultimately be associated with a reduction in street-level drug dealing. Conversely, if intensive use of stops in high-crime communities is associated with an increase in crimes, the practice may not be yielding the intended consequence and may even be linked to an increase in criminal activity due to the public's distrust of law enforcement.

Residents' attitudes toward law enforcement are important to consider in the context of pedestrian stops because citizen cooperation is imperative in the process of investigating crimes. Without confidence in law enforcement, a police agency's ability to solve crimes and make arrests is diminished.<sup>40</sup> Thus, public confidence in law enforcement is crucial to the successful operation of policing activities.

## Summarizing outcome measures for stop and frisk

The two main measures that determine whether stop and frisk successfully decreases crime are the number and type of contraband seizures (or the “hits”) and the number of arrests. However, there is a lack of consensus about how these rates should be interpreted:

- Supporters of stop and frisk say low hit rates and arrest rates indicate that stop and frisk is reducing crime by deterring would-be offenders.
- Critics of stop and frisk, by contrast, view low hit and arrest rates as an indication that stop and frisk is failing to have its intended crime-control impact because it is targeting mostly innocent people.

The limited research on stop and frisk's impact on crime rates has found mixed results, indicating that further research needs to be done on pedestrian stops to understand their impact on crime.

One way to measure stop and frisk's impact on crime would be to look at how crime rates change over time in response to changes in stop and frisk practices. Looking at other outcomes, such as the incidence of crime and calls for service, can also help determine whether stop and frisk decreases crime.

In addition to looking at the effects of stop and frisk on crime, it is important for police departments to collect information about how the police conduct stops and what types of places and people they are targeting to investigate whether stops are well-justified and legal.

Finally, police departments should also be aware of how individuals perceive the practice of stop and frisk in targeted neighborhoods. Understanding the public's reactions to this policing tactic can help departments refine their pedestrian stops policy to boost effectiveness and minimize unintended outcomes (see next section).

## Unintended outcomes

*“You can have a short-term effect on crime with stop and frisk, and crime goes down. But now you’ve alienated 260 kids that were stopped in ways that made them unhappy. It may lead to worse citizens in the future.”*

– David Weisburd, Professor  
George Mason University and Hebrew University

As evidenced by the controversy surrounding the implementation of stop and frisk in major metropolitan areas, this policing strategy may have unintended consequences beyond its intended crime-control impacts. While many police officers who conduct stops are likely to do so in a respectful, lawful, and fair manner, recent research and reports on the topic suggest that standards of legality and appropriate conduct are not always met in the implementation of this practice. Most available research on the effects of this policing tactic on the individuals who are stopped and frisk focuses on New York City.

Some research has concluded that the justification for stops and frisks may not always be clear or fully legitimate. In research undertaken as part of the lawsuit *Floyd v. City of New York*, researcher Jeffrey Fagan found that nearly 30 percent of all stops conducted in New York City from 2004 to 2010 were made on either an illegal or questionable basis.<sup>41</sup>

A survey conducted by the Vera Institute of Justice of 500 young New Yorkers who lived in high-crime, heavily patrolled areas found that less than a third of the respondents reported ever being notified of the reason for why they were stopped. Nearly half of the respondents reported being threatened or having force used against them during a stop, and over half felt they were treated worse because of their race or ethnicity. Being stopped by the police seemed to shape respondents' trust in law enforcement; among those surveyed, an increase in the number of stops experienced over the previous year was correlated with a decreased willingness to report future crimes of which they were the victim.<sup>42</sup>

A 2012 study by the Center for Constitutional Rights (CCR) based on a small sample size of 54 interviews with New Yorkers uncovered evidence of potential mistreatment during stops and frisks; many of those interviewed reported instances of sexual harassment, police brutality, and inappropriate arrests resulting from stop and frisk encounters. These respondents also noted that getting arrested following such encounters—even if the charges are later dropped—can interfere with jobs, welfare benefits, and access to public housing. Moreover, these respondents shared that stop and frisk contributes to a feeling of being constantly under surveillance in their communities.<sup>43</sup> While these alleged stop and frisk practices and types of reactions were based on a small number of respondents and may be far from the norm, experiences such as these may still occur and shape how citizens view law enforcement.

Other research confirms the CCR's findings that being stopped and frisked can be a very negative experience and suggests that individuals, as a result, may feel the police are treating them unfairly. For example, in a study of Puerto Rican and Dominican youth in New York City, respondents reported that the police often stopped and frisked them without explanation and treated them disrespectfully during stops; many also felt that the police singled them out during police encounters because of their ethnicity.<sup>44</sup>

Similarly, a 2009 study of male adolescents from disadvantaged neighborhoods in St. Louis, Missouri, found that respondents described their experiences of being stopped and frisked as demeaning and unnecessarily aggressive. Several of them felt that the police stopped them without cause or solely on the basis of surface-level indicators, such as their appearance or neighborhood of residence. They especially objected to the way police officers used inappropriate language and racial slurs during stops, which Black respondents in particular took as evidence of police officers' racist attitudes.

However, the researchers also noted that while study participants were strongly opposed to what they perceived to be the unjustified use of police stops, they did not object to more general crime-control measures in their neighborhoods.<sup>45</sup> Therefore, both of these studies suggest that the *manner* in which pedestrian stops are conducted contributes the most to individuals feeling they are being treated unfairly.

The potential for pedestrian stops to affect citizens' attitudes toward the police is particularly important given the demonstrated links between perceptions of fairness, evaluations of legitimacy, and police effectiveness. Police departments need the public to view them positively in order to function effectively; without support from constituents, the very authority of law enforcement is threatened.<sup>46</sup> Research indicates that when people feel the police unfairly target them, their belief in police authority diminishes. By contrast, when people feel the police are treating them fairly, they are more likely to view police actions as justifiable.<sup>47</sup>

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While study participants were strongly opposed to what they perceived to be the unjustified use of police stops, they did not object to more general crime-control measures in their neighborhoods.



Other research has found that individuals' willingness to empower and cooperate with the police is largely dependent on the degree to which they view police authority as legitimate, and that—contrary to what deterrence theory would suggest—legitimacy has a stronger impact on compliance with the police than the risk of getting caught. Legitimacy also has a stronger effect on public compliance than police performance in fighting crime, indicating that crime rates are not the most important criteria by which the public judge police.<sup>48</sup>

Furthermore, the public's perceptions of procedural justice, or the fairness with which the police make decisions and exercise their authority, primarily shape legitimacy.<sup>49</sup> Research has found that experiencing equitable treatment during an encounter with the police boosts individuals' perceptions of police legitimacy and their willingness to cooperate even when the outcome of the interaction is unfavorable.<sup>50</sup> These findings suggest that how the police treat people plays a key role in determining their support for law enforcement, which is necessary for crime-control efforts to be effective.

*“Perception is real—perception counts. It counts in terms of how willing people are...to cooperate with police. Perceptions are real, and they make a difference.”*

– David A. Harris, Professor  
University of Pittsburgh

Given this relationship between fairness, legitimacy, and police effectiveness, it follows that the targeted use of stop and frisk—especially if officers do not employ it in a manner that individuals perceive as fair and even-handed—could undermine the ability of police officers to do their jobs successfully. This is all the more concerning in light of the research findings that individuals are much more likely to share stories of negative police-citizen interactions than positive ones<sup>51</sup> and that secondhand accounts of police-citizen interactions can reinforce negative attitudes toward police.<sup>52</sup> This research indicates that the impact of a single negative pedestrian stop experience could extend far beyond the individual directly affected.

### **Race relations and pedestrian stops**

Because law enforcement often concentrates stop and frisk efforts in communities of color, it is important to consider this policing practice in the context of the historically tenuous relationship between law enforcement and African Americans and other racial or ethnic minorities. While police officers may want to focus on minority communities because they experience higher crime rates, residents of neighborhoods experiencing a high volume of pedestrian stops may nevertheless feel that the police are targeting them solely because of their race. Immigrant communities may also feel unfairly targeted in states that rely heavily on pedestrian stops to enforce immigration laws, such as Arizona.<sup>53</sup> The frequency of pedestrian stops in minority communities, as well as the way in which the police conduct them, can damage what are often already tense relations between the police and minority residents.

*“We can’t have a discussion of stop and frisk, unfortunately, without discussing race.”*

– Ronald L. Davis, Director  
Office of Community Oriented Policing Services  
U.S. Department of Justice

Some, but not all, research supports the claim that stop and frisk has a disproportionate, negative impact on communities of color. According to Ridgeway, 89 percent of the stops in New York City involved non-Whites: 53 percent of those stopped were Black, 29 percent were Hispanic, and 3 percent were Asian; 4 percent could not be identified. However, Ridgeway also found that police stopped Blacks in New York City at a rate 20 to 30 percent less than they were represented in crime suspect descriptions, although Hispanics were found to be stopped 5 to 10 percent more than their representation in such descriptions. Moreover, arrest data and suspect descriptions indicated that police stopped minority populations in locations with high crime concentrations.<sup>54</sup>

By contrast, other research has identified clear racial disparity in stops across New York City precincts and neighborhoods,<sup>55</sup> officer-level variation in stops,<sup>56</sup> and racially disparate outcomes associated with city-wide implementation of stop and frisk.<sup>57</sup> In *Floyd*, the analysis undertaken by Jeffrey Fagan for the court found that 52 and 31 percent of the stops conducted between January 2004 and June 2012 were of Blacks and Hispanics, respectively, although the population of New York City in 2010 was about 23 percent Black, 29 percent Hispanic, and 33 percent White. Even when controlling for relevant variables, the analysis found that more stops were conducted in areas with more Black and Hispanic residents and that Blacks and Hispanics are more likely to be stopped than Whites.<sup>58</sup>

Similarly, when Gelman and colleagues accounted for race-specific estimates of crime participation and controlled for precinct variability in their assessment of the NYPD data, they found that racial disparities in the implementation of stop and frisk remained: the police stopped minorities 1.5 to 2.5 times more often than Whites.<sup>59</sup> Even when controlling for a number of factors, including the crime rate in neighborhoods where stops occur, some researchers have found that the police stop minorities at disproportionately higher rates compared to their White counterparts.<sup>60</sup>

Regardless of whether pedestrian stops have a disproportionate impact on minorities after taking crime rates into account, research has shown that stop and frisk appears to have a much more negative impact on minority citizens. For example, in a study of residents of Washington, D.C., Black respondents were over twice as likely as White respondents to believe that police stop people without just cause, that they are too tough on those they stop, and that they are abusive toward citizens.<sup>61</sup> In another study of adults in Chicago, less than half of all African Americans and Latinos felt that police officers acted politely toward them during traffic and pedestrian stops. Furthermore, both of these minority groups were much more likely than White respondents to feel that the police had treated them unfairly during stops.<sup>62</sup> These findings indicate that employing pedestrian stops in an unbiased, constitutional, and procedurally just manner is critical in preserving relationships with communities of color.

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## Implementation in the Context of Community Policing

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The lawful application of stop and frisk remains an open question, but legal precedent invites valid questions about the constitutionality of widespread use of stop and frisk in high-crime communities. Similarly, while studies have yielded mixed findings about the positive crime control impacts of stop and frisk, the research is fairly consistent in the negative impacts stop and frisk can have on police-community relations. These conclusions may lead some police chiefs to discourage the practice of pedestrian stops altogether. But doing so removes an important tool from every officer's toolbox, one that arguably is critical to enhancing officer safety.

Moreover, agencies are increasingly employing the evidence-based strategy of hot spot policing, whereby patrols are allocated to the specific places and times based on analyses of historical crime data. Hot spot policing, even in the absence of an explicit policy to engage in stop and frisk, still runs the risk of alienating community members and dissuading them from cooperating in police-community crime control and prevention partnerships.

*“At the end of the day, who controls the police? The community. If we are unable to have an open and honest discussion with the community about our failures, how do we change the system? That needs to be a police leader-led conversation, which opens doors to let the community into our world.”*

– Frank G. Straub Jr., Chief of Police  
Spokane (Washington) Police Department

These factors suggest that regardless of specific agency-wide crime control strategy or tactic, the use of pedestrian stops *in all possible contexts* should be implemented in a manner that prioritizes police officers' accountability to the communities they serve, takes into account the needs and interests of those communities, and shares the responsibility of promoting public safety with community stakeholders. Law enforcement can best achieve these goals by drawing upon the insights of community policing to guide the development of new pedestrian stop policies.

Only a few decades ago, the phrase “community policing” was hardly uttered among law enforcement, criminal justice, or policy circles. Today, references to community policing are commonplace, yet the concept means different things to different people. For the purposes of this guide, community policing has three main components: community partnerships, organizational transformation, and problem solving.<sup>63</sup> Together, these three elements guide police in effectively addressing crime and disorder while engaging the community and entering into strategic partnerships aimed at crime control and prevention.

Agencies engaged in community policing need not discard traditional law enforcement activities such as surveillance, investigation, and apprehension. Indeed, pedestrian stops can easily fall into one or more of those “traditional law enforcement” categories. But the question at hand is how should an agency that embraces community policing implement stop and frisk?

To answer this question, law enforcement can begin by examining a traditional policing approach to pedestrian stops. This type of approach would focus solely on pedestrian stop outcomes relating to arrests and confiscations. While a traditional police agency may rely on existing crime distribution data to target the strategy, most likely it would neither analyze the use of stops in the larger context of community relations nor identify and address the underlying causes of the gun carrying or illegal behavior. In other words, many traditional agencies would view the practice of stop and frisk as just another tool in the patrol officer's toolbox.

In contrast, the community policing approach would consider the use of pedestrian stops within the broader context of promoting public safety, well-being, and strong police-citizen relations within a given community. It would begin with a thorough statistical and spatial analysis of the types of crimes pedestrian stops are designed to prevent by investigating where gunshots are reported, where the open-air drug markets are located, what times of day offenses are likely to occur, and whether a widespread group of offenders or a limited number of repeat offenders perpetrate prevalent crimes.

Police departments would also identify the community leaders—including council members, service providers, and clergy—in the areas most affected by these crimes, and it would investigate the unique issues, challenges, and resource needs the neighborhoods are facing and the populations targeted through stop and frisk.

Finally, a crucial component of the community policing approach would be to understand the impacts of pedestrian stops on individual residents and use this information to improve the use of stops and bolster police-community relations. Exploring issues such as these will help guide the use of pedestrian stops in a manner that is more likely to achieve the intended results while minimizing the negative impact of the strategy through the full engagement of community members and potential crime control partners.

## The police executive's role

*“Cops need their leadership to be legitimate just as the community needs their cops to be legitimate.”*

– Edward A. Flynn, Chief of Police  
Milwaukee (Wisconsin) Police Department

Providing effective leadership on the use of pedestrian stops requires communication and collaboration among a wide array of law enforcement staff and community stakeholders. These interactions demand strong leadership from the agency's law enforcement executive and his or her commanders. The police executive sets the tone, sends the message, and engenders the buy-in of his or her commanders, sergeants, and lieutenants. As the key figurehead of the agency, he or she is also the person to whom the community looks for messages about how the agency—from command staff to line officers—views, values, and treats the communities in which the majority of pedestrian stops take place. Therefore, police executives should clearly articulate the principles to which officers must adhere to ensure a sound, constitutional, and effective pedestrian stop policy.

Encouraging officers to employ pedestrian stops responsibly falls into a larger category of communicating expectations about ethical behavior and what it means to approach one's job with integrity. Creating a culture of integrity within a police department involves the following:

- Communicating a vision for the agency and the manner in which it will partner with the community
- Selecting the best possible people to serve as officers and seeking out those with experiences and qualities that are consistent with that vision
- Listening and responding to the views and input of officers and community members
- Building in measures of accountability throughout all levels and roles within the agency
- Training and leading officers through example, teamwork, and problem solving<sup>64</sup>

Developing sound pedestrian stop policies within the context of these steps will ensure that they are integrated within, and reinforced by, an overall culture of ethical and respectful behavior.

### Communicating a vision of integrity

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“Best practices” in policing are often described as being strengthened by a firm adherence to principles of integrity. From an officer's perspective, adhering to principles of police integrity requires a clear understanding of what those principles are; far too often, officers

who fail to approach their jobs with integrity claim ignorance about the expectations of appropriate conduct. Therefore, police executives must remove such excuses by clearly defining acceptable and unacceptable conduct. Indeed, research has found that officers who view departmental rules as clearly articulated and communicated report a greater willingness to abide by them.<sup>65</sup>

In the case of pedestrian stops, departments' principles of integrity should include conducting stops in a manner that is legal, well-documented, well-justified, and respectful to the individual being stopped. Police executives aiming to promote the responsible and respectful application of pedestrian stops should communicate these principles through the department's mission statement and insert that vision into all conversations and communications, both internal and external to the department. Communicating zero tolerance for

unacceptable conduct by investigating and disciplining charges of misconduct promptly and with full transparency is equally important.<sup>66</sup>

### Recruiting for excellence

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Police executives have an opportunity to shape the culture of their agencies through the officers they recruit. When recruiting new officers, executives should pay attention to the factors that motivate candidates to seek a career in law enforcement. Those candidates who have a service orientation are more likely to adhere to departmental standards of integrity.<sup>67</sup>

Having diversity in police departments in terms of race, ethnicity, and gender can also help communities feel that the police better represent their perspectives and interests.<sup>68</sup> Diversity



John Roman Images / Shutterstock

can be particularly important in jurisdictions with predominantly minority communities, which are often the areas of focus for pedestrian stops. Recruitment strategies should also reflect a desire to draw from a variety of backgrounds and perspectives. Increasingly, police agencies are recruiting from the ranks of social workers, educators, and nurses in addition to more traditional sources of recruits, such as military veterans.<sup>69</sup> This diversity of perspectives is arguably as important as diversity in race, gender, and ethnicity, preventing the type of groupthink and brotherhood that breeds cover ups and corruption and inhibits whistle blowing.

Finally, given that strong communication skills are important for officers to “sell” stops successfully to pedestrians, prioritizing this trait from the beginning by recruiting officers with strong verbal communication skills is crucial.

As a part of the recruitment process, the police department should subject prospective candidates to a full battery of psychological tests, along with interviews and a thorough background check.<sup>70</sup> For experienced applicants seeking to move from another law enforcement agency, Human Resources staff must conduct a thorough references check to ensure the applicants are not leaving their department due to performance problems.<sup>71</sup>

### Listening to stakeholders

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Stakeholders on the topic of pedestrian stops exist both within and outside of the police department. In the hierarchical command and control culture of a police agency, line officers may be overlooked because the department assumes they will do what they are told regardless of their degree of buy-in. Contrary to that view, line officers are arguably the most critical stakeholders to communicate with and listen to when discussing expectations for conduct with regard to pedestrian stops. Research supports this view, finding that departments should ensure that officers perceive policies to be fair and applied uniformly throughout the department for these policies to be effective.<sup>72</sup> Police executives must equally convey that the department will not tolerate officer silence about rule violations.<sup>73</sup> Therefore, law enforcement executives should take the time to communicate with line officers and convey both their vision of integrity and their expectations for police-citizen interactions.

*“We’ve proven that real engagement means real talk, face time, being on the street, listening to people yell and vent. It’s the only way to come up with new programs, strategies, tactics.”*

– Michael L. Walker, Executive Director  
Partnership for a Safer Cleveland

However, the chief or commissioner cannot be present with line officers on a day-to-day basis; thus, securing the buy in of their command staff, along with the sergeants, lieutenants, and captains who report up the chain of command, is critical. Listening to these managers, and particularly communicating with direct supervisors, will ensure that the vision and message of respectful conduct permeates throughout all levels of the department.

With regard to external stakeholders, they run the gamut, from elected officials to local residents, and include individuals representing nonprofit service providers, faith institutions, and advocacy organizations. Police executives should convene community-based meetings (located in the specific neighborhoods most afflicted by crime and subjected to pedestrian



stops) and engage in proactive outreach to each category of stakeholder. They should also explain the philosophy and purpose behind pedestrian stops, along with the departmental policies guiding their use, the accountability measures in place to ensure good conduct and to identify noncompliance, and the disciplinary process associated with repeated or severe misconduct. Research suggests that addressing even minor offenses swiftly and publicly, along with disclosing the disciplinary process and ultimate outcome of cases to the public, are critical to enhancing integrity within a police agency.<sup>74</sup> In the process of convening external stakeholders, police should also make a special effort to reach out to youth, who comprise an important segment of the community that often gets overlooked.<sup>75</sup>



When police executives convey this information, they should also solicit stakeholders' input, enlisting them as shared owners of public safety in their communities. Other methods to engage community stakeholders include establishing and/or encouraging participation in a citizen's police academy and a citizen review board. Citizen police academies enable residents to experience the job of a police officer, understand the goals and rules associated with the job, and gain an appreciation of the challenges line officers face.<sup>76</sup>

Welcoming citizen complaints through anonymous hotlines, formal review boards, and regularly administered community surveys is another means of enlisting stakeholder input and buy-in. Establishing a simple hotline or review board is not sufficient; the police must acknowledge and investigate citizen complaints. In a survey of officers on their views, those in agencies that thoroughly reviewed and acted upon citizen complaints perceived that serious violations would result in severe disciplinary action.<sup>77</sup>

Furthermore, ignoring citizen complaints after publicly welcoming them is arguably more harmful to police-community relations than not soliciting such feedback at all. While responding to complaints in a timely and appropriate manner is of prime importance, police departments should also take the opportunity to communicate positive news and success stories to communities whenever possible to further bolster community-police relations.

In addition to engaging in dialogue with community residents and encouraging their involvement, it is also important for police executives to reach out to other key agencies and actors whose work touches a given community. Making a community policing initiative a citywide issue can help departments better achieve the myriad goals of community policing within the context of resource constraints.<sup>78</sup> Because community policing is a long-term approach that is unlikely to yield the sort of quick, clean-cut results that politicians sometimes seek, bringing political leaders on board can be challenging. Having ongoing dialogue with political leaders to educate them about the goals of community policing may be helpful in building support for new initiatives.<sup>79</sup>

One final key stakeholder is the media. Police agencies are often bedeviled by the media who perceivably favor stories of police misconduct while largely overlooking examples of everyday heroism. In the case of stop and frisk, engaging and educating the media is critical



in presenting a balanced representation of the reasons behind conducting such stops and the department policies guiding the practice. Reaching out to the media proactively and giving reporters access to time with police leadership rather than responding to inquiries solely through the agency's public information officer can help influence both the media's and the community's perceptions of the agency and its goals and mission.<sup>80</sup> When interacting with the media, police executives should also consider how to convey accurate and timely information through alternative media sources, such as blogs, Twitter, Facebook, and YouTube.<sup>81</sup>

## Building accountability

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A department that embraces the principles of community oriented policing needs to establish clear policies to translate those principles into action. Receiving accreditation by an external body, such as the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), can be an important step in building accountability by ensuring that agencies adhere to a set of uniform, externally imposed standards. Police departments can also establish policies internally and hold staff accountable to them by building in measures of accountability throughout all levels and roles within the agency.<sup>82</sup> Doing so can strengthen the capacity of law enforcement both to prevent and respond to crime efficiently and effectively.

Internal communication is a vital component of implementing policies at the department level, particularly if those policies concern internal accountability measures for conducting street stops. Police executives best support policies of this kind when they make their officers aware of the policy and those officers support it, know the disciplinary action associated with violating it, and perceive that disciplinary action to be fair.<sup>83</sup>

*"If you don't have data on what your officers are doing, what complaints they're generating, you're in no better position to say that [a policy is] a good idea than someone in the community who says it's a bad idea."*

– David A. Harris, Professor  
University of Pittsburgh

Communicating the rules is a vital first step in this process, particularly because officers must be aware that the accountability policy is a priority for the department's highest level of command. A chief signaling his or her belief in good practice and commitment to ensuring fidelity to that practice assists in gaining buy-in from officers and legitimizes the system of accountability. This involves routinely communicating department rules and changes in relevant regulation through various means, including within the academy setting and through in-service trainings, roll call meetings, and other departmental communications.

Police executives can communicate this high-level buy-in, along with the substance of the accountability system itself, in several ways. Memos in paycheck envelopes, e-mails, presentations at roll calls, and continuing education are all strategies departments can employ to communicate policies concerning accountability to officers. The academy can also set expectations for these policies (see "Training and leading" on page 30). However, nothing signals that a policy is a priority like having the chief physically present to communicate directly to the officers the policy and accountability to which the department will hold them.

### Data forms for officers to justify stops

The Boston Police Department collects stop data through a field interrogation form, which all officers must fill out after each stop. Officers must list reasons for original stop, interrogation, observation frisk, or search, as well as document the outcome (seizure, FIO, other)(see appendix B). This form is similar to the NYPD's UF-250 form and Philadelphia's 48A form.

The substance of accountability policies designed to ensure the appropriate use of pedestrian stops may vary according to the needs and conditions of a specific department, but the procedures described in this section provide a menu of options for agencies to consider. One important component of accountability procedure is documenting stops in every instance they occur. The date, time, justification, context, and outcome of the stop are all vital pieces of data that can assist the department in both ensuring integrity to community oriented policing and tailoring the strategy in a manner that is responsive to crime trends and the context of criminal activity in the jurisdiction. In addition, these data can serve as an insurance measure against fraudulent or unfounded lawsuits, enabling the department to operate with the full weight of credible information about what its officers have or have not done.

Furthermore, requiring officers to document each stop (including the reason for and outcome of the stop) acts as an accountability measure in and of itself because it compels officers to justify their activity immediately after it has taken place. By requiring officers to fill out a form detailing their activities, this measure also makes it more costly for officers to conduct stops, which will incentivize them to do so only when they believe it is necessary and appropriate.

Police departments should maintain the documentation of stops electronically to enable routine analysis and investigation; if a department has the resources to secure electronic devices sufficient for documenting the information necessary in the field, this process should be automatic. But in a time of limited resources, departments can issue paper reporting templates that the officers can enter into an information management system at the end of each shift.

The information management systems used to process these reports should facilitate a department's ability to identify trends, measure performance, and identify problems with conduct. The objectives of the department may be intertwined, meaning the same system can help craft a public safety strategy by identifying trends in crime reporting and monitor officer conduct by cataloging individual-level officer activity.

For holding officers accountable for their behavior toward citizens, a department's information management system can serve as an early intervention system (EIS) that supervisors can use to identify officers with patterns of conduct that are not consistent with the department's policies or values. Once identified, these officers can then receive interventions designed to address and change problematic conduct.<sup>84</sup> Officers may be tasked with inputting their own stop-related information; thus, access to officer-level or department-level data should be appropriately limited to minimize tampering.

Once a department implements an early intervention system, the department can use the data to analyze the impact of department operations on specific geographic areas and/or subpopulations within the jurisdiction. These data can help departments evaluate the impact they have on their citizens by exploring issues such as whether certain demographics and/or residents in particular geographic areas might be experiencing disproportionate contact with officers. In addition, the system can track crime incidence among subpopulations. Depending on the sophistication of the system, departments can also incorporate citizen-generated data such as complaints or alerts to dissatisfying contact with officers, providing information that may also be relevant in constructing an early intervention system to identify and rectify an officer's inappropriate behavior.

### Body-worn cameras to monitor stops

One of the more controversial requirements to come out of the ruling in *Floyd vs. City of New York* is that the NYPD pilot-tested the use of body-worn cameras that record police officers' interactions with citizens. The intent behind this requirement is threefold: to provide an objective account of what transpired during a given police-citizen interaction, to encourage both police and citizens to act lawfully and respectfully, and to provide assurance to citizens filing complaints—as well as officers accused of misconduct—that evidence is available to back up their claims.\*

While research suggests that the use of cameras by police officers may have beneficial effects on police-community relations and crime, the overall success of this tactic would largely depend on the manner in which it is implemented. One study on the use of body-worn cameras by police officers in Rialto, California, found that the department experienced a substantial reduction in the number of citizen complaints filed against officers and the overall use of force by officers after some officers in the department began wearing cameras.† Another study on police use of public surveillance cameras found that they have the potential to reduce crime and help in investigations, but these positive effects were most pronounced when footage from cameras was routinely monitored by trained staff.‡ Similarly, body cameras would probably be most effective when officers believe that the footage is being viewed regularly and are held accountable for any misconduct that it reveals. Otherwise, police officers may come to view body-worn cameras as an empty threat.

An important risk to consider with the use of body-worn cameras is that they may pose a privacy concern to citizens captured on film. Successfully implementing this tactic, therefore, would require ensuring that its use does not comprise citizens' constitutional rights. Even if these privacy concerns are successfully addressed, body-worn cameras alone will not be sufficient in correcting the problems associated with stop and frisk. The rest of the tactics described in this guide—such as requiring officers to file reports and ensuring that officers are properly trained to conduct respectful and justified stops—are necessary to minimize the negative effects of this policing strategy on citizens and communities.§

In the fall of 2013, the Police Executive Research Forum, in partnership with the COPS Office, held a national symposium to discuss the many issues law enforcement agencies are facing related to the use of body-worn cameras. A publication resulting from that discussion is currently in production. This publication will include guidelines for the use of body-worn cameras, examples of promising practices, lessons learned, and suggestions on developing operational and policy guidelines.

\* *David Floyd et al. v. City of New York*, 08 Civ. 1034 (August 12, 2013), <http://ccrjustice.org/files/Floyd-Remedy-Opinion-8-12-13.pdf>.

† Tony Ferrar and Barak Ariel, *Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-Of-Force* (Washington, DC: Police Foundation, 2013).

‡ Nancy G. La Vigne et al., *Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention* (Washington, DC: Office of Community Oriented Services, 2011).

§ Nancy La Vigne, "It's One Smart Step, Not a Solution," *The New York Times*, October 23, 2013.

## Auditing procedures

Many major city police departments are required to perform annual audits of their citizen stops as a result of negotiated settlement agreements and/or consent decrees with the U.S. Department of Justice's Civil Rights Division. These audits include stop data for every vehicle or street stop, field investigation, and detention: e.g., the time, location, ID of the officer making the stop, reason for the stop, description of the individual stopped, whether the officer conducted a search, and the outcome of the search. Many departments include additional information beyond their annual reporting requirement as a means to track how officers are conducting stops. For example, the Philadelphia Police Department Internal Affairs division conducts an automated audit of approximately 50 stop reports every quarter to identify potential legal issues and/or misuse of the practice.

The department's use of the trends it identifies should include targeting specific officers for early intervention and problem solving, but it can also include disciplinary action. After a supervisor identifies officers who have violated department policy and subsequently disciplines them, the department, in its own best interest, should make some information public to demonstrate to the community that it is responsive and proactive in addressing officer misconduct, thus helping the department to maintain its legitimacy.<sup>85</sup>

Furthermore, in keeping with well-established principles for promoting police integrity, departmental leadership must communicate to officers at all levels that Internal Affairs is tracking officer conduct in encounters with citizens and that policy regulating conduct in this area is subject to review and disciplinary action. Beyond promoting the legitimacy of the department's internal accountability processes, the clear and consistent delivery of this message will assist officers in policing their own behavior.

## Training and leading

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Holding officers accountable for the way they conduct pedestrian stops extends beyond developing reporting procedures. Improving officer training programs, both in the academy and on the job, is particularly important in accomplishing this goal. When conducting pedestrian stops, which are a part of everyday business for many patrol officers, police departments need to prioritize officer training.

Departments interested in implementing stops in a manner that enhances police legitimacy should look far beyond the isolated acts of officers making stops on the street and focus on crafting department-wide policy that embraces a larger vision of what it means to police in a community- and problem-oriented way. This vision must be articulated in department policy, engrained in officer training both in the academy and in the field, and enforced through data collection and accountability mechanisms.

Training in the academy on the principles of community oriented policing and the procedures the department adopted to support those principles is a necessary component of promoting an organizational culture of integrity. Coupled with clear and predictable accountability measures, continuing training can ensure a department facilitates, from the beginning of each officer's career, the adoption of proper attitudes and procedures concerning the community.

Training curricula delivered with regard to the use of pedestrian stops should be multifaceted. First and foremost, every officer must understand the laws governing pedestrian stops to have a clear understanding of the conditions under which stops are justified. Improving officers' decision-making skills through training can help reduce the number of unnecessary stops conducted, which, in turn, may help improve the public's perceptions of the practice over time.

Given the widespread concern that stop and frisk targets minority populations, training should focus on officers being more discerning in deciding whom they stop and exploring the role that bias and stereotypes have in making these decisions. Training on racial bias in policing should emphasize the importance of safeguarding civil rights and include information on the evidence for racial bias in policing, the potential reasons for why it exists, and the effects that it can have on citizens and communities.

*“Most of the complaints we get are not about the stop, they’re about the way the person was treated during the stop. We’re focusing our training on how to have positive interactions under intense circumstances. The art of conversation is something we’re beginning to lose.”*

– Charles H. Ramsey, Commissioner  
Philadelphia Police Department

Training programs covering these issues should be developed with input from community members, police officers, and professional educators and trainers external to the agency and take into account the sensitive and multifaceted nature of the topic. They should also seek to reflect the concerns and experiences of the local community. Finally, training on this topic should avoid being accusatory in tone and aim to include and engage police officers in collaborative discussions on the issue.<sup>86</sup>

In addition to receiving training on the conditions under which pedestrian stops are acceptable and appropriate, officers must also be trained to interact effectively with the public when conducting necessary stops. This requires practicing the appropriate strategies to communicate clearly, defuse conflict, and redirect behavior. Improving officers' ability to interact and communicate with individuals who are stopped can help minimize the public's perceptions that police actions are motivated by racial bias.<sup>87</sup>

Once the academy establishes expectations for department philosophy and individual officer conduct, departments should use continuing education to promote any community oriented policing values and overarching departmental philosophy. In addition, continuing education should maintain officer familiarity with the reporting and accountability procedures discussed in “Building accountability” and any relevant changes in case law or department policy concerning officer-level conduct.

Opportunities to conduct continuing education can be varied: e.g., roll-call statements, pay stub notices, dedicated continuing training time, and field training are all methods the department can use. An important component of continuing education, regardless of how or where it is conducted, is that it incorporates elements responsive to current issues and questions facing the department. These issues could include changes in police/community contact data, new relevant guidelines for officer behavior, and important current affairs involving the department.

In situations where new regulations are issued for pedestrian stops, such as federal case law or state laws, departments may provide updates through e-mails and other electronic communications, issue pay stub notices, deliver statements during roll call, and host seminars to brief officers on the new regulations. If departments must respond to or anticipate current events that have implications for strategies involving pedestrian stops, they may choose to brief officers on relevant information about the event, the department's strategy in addressing it, and the implications for their daily practice with regard to stop and frisk.

Continuing education in the form of post-academy field training can be an important component in creating a competent, community-oriented police force.<sup>88</sup> Field training can help instill the patterns of behavior and day-to-day practices necessary to the faithful implementation of pedestrian stops from the outset of a new officer's career. It can also help departments ensure officers are implementing stops faithfully before accountability measures detect those who fail to do so.

#### Communicating internal policies and procedures

The Boston Police Department has established rules and procedures for conducting pedestrian stops to clarify that the purpose of the stop is to collect information on known criminals and develop intelligence. The policies also provide legal context for the relevant terms (e.g., street encounter, field interaction/stop, frisk, intelligence, observation, probable cause, reasonable suspicion, and search). In addition, the department releases training bulletins that keep up with case law and refine the criteria by which a police officer may search a pedestrian. (See an example bulletin in appendix C).

The Milwaukee Police Department has also developed a series of internal policies related to both motor vehicle and street stop procedures (see appendix D). It also developed a PowerPoint presentation documenting the agency's motor vehicle and street stop practices, which the department updates on a quarterly basis and shares with the city council and the public.

Through field training, trainees can witness pedestrian stops firsthand, begin to understand the conditions in which frisks and searches are justified, and observe how pedestrian stops fit into a department's broader strategy. Field training can also give trainees an opportunity to work with their police training officer to practice effective communication and conduct respectful frisks. Police departments looking to expand their field training programs may benefit from implementing the Police Training Officer Model, which assists trainees in applying the principles learned in academy to their operations in the real world with an emphasis on community policing and problem solving.<sup>89</sup>

Documenting policies, training officers, recording officer activity, and developing accountability mechanisms are each practices necessary to the implementation of pedestrian stops; however, taken separately, they are insufficient to guarantee fidelity to community oriented policing principles. Rather, each of these measures works in tandem with the others to create and communicate policies that reflect agency-wide espousal of the principles of community oriented policing and places a premium on police integrity. In combination, these measures ensure the development of a police force that is cognizant of the importance of these principles in its approach to public safety and maintains and ensures they are reflected in day-to-day practice.

### Training on pedestrian stops

The Reno Police Training Officer model incorporates principles of problem-based learning and uses experienced officers as both Police Training Officers who are coupled with trainees in the field in order to coach them daily, and Police Training Evaluators, who analyze and document a trainee's daily performance on specific metrics. These metrics must be pre-established and memorialized in department documentation, made transparent to all parties involved in the Police Training Officer model, and formulated consistently with community oriented policing principles. In order to specifically prepare officers to conduct pedestrian stops, frisks, and searches, these metrics should include measures that relate to core competencies such as: conflict resolution, knowledge of legal authority, knowledge of detention and frisk parameters, interpersonal skills, and communication strategies.\*

\* For more detailed information on the Reno model, see *PTO: An Overview and Introduction* (Washington, DC: Office of Community Oriented Policing Services), <http://ric-doj.zai-inc.com/Publications/cops-w0150-pub.pdf>.



## Officer-Level Responsibilities

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Police leadership clearly has a critical role in setting the standards for how officers engage in pedestrian stops and under what circumstances, but the actions of officers on the street matter most when it comes to police-community relations.

Research evaluating a variety of police-led interventions indicates that interventions designed to enhance police legitimacy through procedural justice can lead to a variety of positive outcomes: e.g., increased compliance, cooperation, and citizen satisfaction with and confidence in the police. This suggests that when police officers put the powerful concepts of procedural justice and legitimacy into action, they can positively affect how the public perceives them and how willing constituents are to work with them.<sup>90</sup>

*“If you have the right tool, the right purpose, and the right manner, then you have the right outcome. If the treatment is proper, then the legitimacy of the police goes up—whether you get something on the stop becomes secondary.”*

– Ronald L. Davis, Director  
Office of Community Oriented Policing Services  
U.S. Department of Justice

Therefore, departments embracing community policing should use pedestrian stops as opportunities to demonstrate the standards of fairness and respect that they embrace. If the officer does not treat the pedestrian in a respectful manner, or if the pedestrian does not believe the officer is being sincere in his or her behavior, preventing the stop’s negative consequences for police legitimacy and relations with the community will be difficult, if not impossible. Moreover, to stop and frisk a pedestrian solely on the basis of his or her appearance is unlawful; police must have a clearly articulated, well-justified basis for such stops.

In the event that a stop or field interview leads to a frisk or search, officers need to be aware of their conduct and take additional measures to protect the citizen’s rights during the search. The conduct of the officer is paramount in these interactions: even if the justification for a pat down meets legal criteria and does not violate the citizen’s rights, the officer’s demeanor during the stop can affect the overall encounter and its outcome.

Police officers should operate under the premise that citizens are not necessarily aware of the circumstances under which the officers are stopping them and may not be schooled on the concept of “reasonable suspicion;” therefore, the officers should view these encounters as teachable moments. Because stops have the potential to have a negative impact on police legitimacy in the community, officers should strive to “sell the stop” whenever possible,<sup>91</sup> explaining the reasons for and logic behind the stop and walking the pedestrian through the process step by step. This includes greeting the pedestrian in a respectful manner, explaining the reason for the stop, explaining the stop within the context of the department’s overall crime reduction strategy, and then talking the pedestrian through each step of the stop as it proceeds.

This focus on explaining the logic behind the stop, or “selling” it to the pedestrian, encourages the officer to treat the pedestrian with respect and explain departmental policy and strategy. It also encourages officers to restrict stops to only those who meet the appropriate criteria, thus reducing the number of unnecessary stops and negative consequences.

Even if a stop results in an arrest, the pedestrian in question as well as his or her fellow community members can still distinguish between interactions that are procedurally compliant and those that are not. The law enforcement officer’s demeanor during the interaction with the pedestrian (the selling of the stop) is the most important factor in determining whether the pedestrian and bystanders observing the stop will believe it was legitimate. By taking these simple steps, officers can help ensure that street stop encounters do not harm police-community relations. In fact, by clearly communicating the need for and intent behind pedestrian stops, officers may even be able to enhance this vital relationship in the process of conducting the stop.

### **The value of officers’ presence in communities**

Another way to improve citizens’ relationships with police officers may be to keep the same officers in the same locations over time. Assigning officers to specific neighborhoods for extended periods is one of the key components of community policing, as this strategy ideally allows officers and citizens to build trust and confidence in one another and helps officers have more detailed knowledge and understanding about the communities they serve.<sup>92</sup>

For example, an early study comparing community-controlled police agencies to those under citywide control found that the smaller, locally controlled police forces were more successful in meeting the needs and expectations of citizens,<sup>93</sup> lending support to the idea that locally based officers may be able to work more effectively with communities. A more recent evaluation of the Chicago Alternative Policing Strategy (CAPS) found that traditional community policing tactics, including assigning patrol officers to dedicated beats, can improve the perceived quality of life in neighborhoods.<sup>94</sup> Also, a recent study conducted in Philadelphia found that assigning officers to foot patrol in small beats in high-crime districts led to decreases in violent crime. The authors of this study suggested that interaction with the community coupled with enhanced investigative efforts and more proactive law enforcement likely contributed to this decline in crime.<sup>95</sup>

Communities that have a strong police presence and a positive relationship with their police can also enjoy benefits outside of the direct public safety value that police offer. Research conducted in Indianapolis found that communities in which residents feel that police are accessible tend to have higher levels of social capital, such as increased trust and collaboration among residents; this suggests that the police may be able to enhance social capital in communities by being more responsive to problems and available to residents.<sup>96</sup>

Additional research has concluded that increasing police visibility in neighborhoods can increase residents’ opinions of the police, improving their perceptions of police trustworthiness and their belief that officers are taking action to control crime.<sup>97</sup> Furthermore, the

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To stop and frisk a pedestrian solely on the basis of his or her appearance is unlawful; police must have a clearly articulated, well-justified basis for such stops.

police can achieve this visibility through community policing tactics such as the permanent assignment of officers to neighborhoods and the implementation of foot or bike patrols.<sup>98</sup> Research also suggests that increased community policing efforts can enhance citizens' crime prevention efforts and increase satisfaction with police over time, which, in turn, is associated with reduced fear of crime.<sup>99</sup>

*“We’ve gone back to the days of policing where we want to put the same officers in the same neighborhood. The officers realize that they’re a part of the community, not apart from it, and are going back to that beat tomorrow. Same officer, same beat. Get to know your beat—that changes the way an officer does his work.”*

– Dean M. Esserman, Chief of Police  
New Haven (Connecticut) Police Department

However, simply increasing police presence without addressing how the police interact with and treat citizens is unlikely to improve police-community relations, given the importance of fairness and legitimacy. For all these reasons, officers engaging in pedestrian stops should do so in a manner that clearly conveys to the public that police are actively working to improve neighborhood safety and are attentive to and respectful of citizens' needs and concerns. Assigning officers to dedicated neighborhoods could help facilitate the development of the type of positive, productive relationship between officers and citizens that is necessary to minimize the negative impact of pedestrian stops.

## Navigating the Challenges of Community Policing

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Although community policing practices are critical to the successful implementation of stop and frisk strategies, adopting community policing strategies is not without its challenges. Awareness of these common hurdles and the steps police departments can take to address them may aid departments seeking to implement stop and frisk within the context of community policing.

### Departmental challenges

Surveys of police departments across the country have identified several challenges to implementing community policing. The single greatest challenge is securing the buy-in of both line-officers and middle managers.<sup>100</sup> Other challenges include a lack of knowledge about community policing among officers, belief that community policing is a less effective and more time-consuming use of limited resources than traditional policing, concern that community policing reduces officers' law enforcement powers, and resistance stemming from the top-down nature of the implementation of community policing.<sup>101</sup>

A recent evaluation of community policing programs across 12 jurisdictions found that community policing was often only a component of police agencies' strategies and was not incorporated into their overall organizational culture. For example, performance measurements and appraisal criteria in many of these jurisdictions continued to be based on older models of policing and did not reflect the newer skill sets and approaches associated with community policing.<sup>102</sup>

These findings point to the importance of training all officers and recruiting new officers who are supportive of the tenets of community policing.<sup>103</sup> Because recruiting service-oriented officers (as opposed to those attracted solely to the enforcement activities associated with the job) is a challenging area for police departments overall, focusing on improving departments' marketing and branding efforts may be important to attract a diverse pool of applicants.

In a survey of police chiefs and other police leaders, some reported that they minimized the backlash associated with community policing among their officers by avoiding the term altogether and instead referred to the core concepts of community policing as "quality policing" or "good police work."<sup>104</sup> These leaders also noted the importance of ensuring that officers' performance evaluations within a department transitioning to community policing reflect the realities of that transition. If performance evaluations do not take into account the additional responsibilities required of officers under community policing initiatives, officers may not feel recognized or rewarded for their efforts.<sup>105</sup> Likewise, in the context of stop and frisk, departments should recognize and reward officers for engaging in the practice in a way that takes into account the broader aims of community policing.

In addition to intra-departmental challenges, police unions may also attempt to resist some of the reforms associated with community policing. While some cities' unions have endorsed community policing, others have criticized it. In many cities, departments are bound by

the contract between the union and the city to honor certain work rules, performance standards, and staff allocation practices. These specifications may interfere with a department's attempts to realign their policies according to the principles of community policing. Resistance from unions may necessitate compromises between the union and department in order to introduce organizational changes.<sup>106</sup>

## Community challenges

Although community involvement is a key component of community policing, it can also be one of the most challenging to accomplish for several reasons. First, residents may not have a clear understanding of what community policing entails or what police departments expect their role to be. One multi-site study evaluating the implementation of Innovative Neighborhood Oriented Policing (INOP) found that the average citizen knew very little about agencies' efforts to implement community policing; even community leaders had only a limited understanding of the community's role in the initiative.

Often, residents' familiarity with community policing did not extend beyond the neighborhood events, such as block parties that the police organized.<sup>107</sup> While these events may have been useful in strengthening social bonds within communities, they were largely unsuccessful in conveying specific knowledge about community policing to the public. In general, community leaders and residents felt that police departments failed to provide adequate outreach and education to the community.<sup>108</sup> Some chiefs and police leaders surveyed on this topic also suggested that relying on digital communication strategies could contribute to alienating segments of the population with limited access to technology or the Internet.<sup>109</sup>

Second, residents may choose to avoid involvement in community policing projects because they harbor distrustful feelings toward the police and are unwilling to share crime-related information.<sup>110</sup> This lack of trust can be especially problematic in disadvantaged, minority communities that have had historically tense relations with law enforcement.<sup>111</sup> For example, an evaluation of the implementation of the Chicago Alternative Policing Strategy (CAPS) found that more economically advantaged communities experienced strong turnout in meetings and identified closely with police officers. Conversely, police weren't even able to implement the CAPS program in one of the study's most disadvantaged and crime-ridden localities due to opposition from leadership.<sup>112</sup>

Distrust toward police officers is also likely to be a challenge in communities that have experienced hot spots policing and/or the targeted use of stop and frisk in recent years. In the INOP sites, community residents were also skeptical of community policing initiatives because they had been subject to numerous short-lived projects in the past. These residents complained that the police presence in their communities was fleeting under the INOP initiatives. Residents also expressed interest in having long-term beat officers assigned to their communities but found that the realities of officers' beat assignments through INOP failed to live up to their expectations because the beats were too large or because officers were frequently reassigned to different beats.<sup>113</sup>

Third, stimulating community involvement in poor, minority communities can be challenging from an organizational perspective. The population of such communities may experience a high turnover rate, which makes identifying a set group of residents to work with difficult; furthermore, community residents with little free time may be reluctant to get involved in community policing initiatives.<sup>114</sup> Severely disadvantaged neighborhoods also tend to be more disorganized with little, if any, leadership in place. Occasionally advocacy groups that do not reside in the community represent those neighborhoods and may have a specific agenda that is not favorable to the police. Also, residents within a given neighborhood may have contradictory opinions about the problems their community faces and the steps that should be taken to address them, which can contribute to intra-group conflict.<sup>115</sup> This problem can be especially acute in communities with highly diverse populations; for example, in Chicago, communities with higher levels of diversity tended to have widely conflicting opinions on local issues, and this made engaging them more difficult for officers.<sup>116</sup>

These findings suggest that community training and education are important components when revising policing policies associated with pedestrian stops.<sup>117</sup> Throughout the implementation process, the police department needs to reach out to the community on an ongoing basis and stress the community's role in the undertaking. In addition, departments should institutionalize community policing initiatives and set them up to last in a given area for an extended period of time.<sup>118</sup> Part of this long-term commitment requires having sufficient resources to deliver on key components of community policing, such as assigning officers to dedicated, manageable beats.

To engage the community effectively, police officers should also be familiar with principles of neighborhood organizing.<sup>119</sup> Providing training to community members on resolving intra-group conflict could help in this regard.<sup>120</sup> By working in conjunction with other agencies, police departments could also help stimulate the development of community organizations in communities that lack them.

Finally, police should also be aware that the benefits of community policing may take a long time to realize.<sup>121</sup> For example, a study of police departments across the United States found that departments that had community policing in place for relatively longer periods of time rated themselves as more successful overall than other departments. In the context of pedestrian stops, police departments should expect that changing the associations—both positive and negative—currently surrounding the practice through the framework of community policing may be a challenging, long-term process. Repeated, strategic, and creative outreach to the community over a long period may be necessary to improve community-police relations in target areas.

## Conclusions and Future Directions

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Stopping, questioning, and—if reasonable suspicion or probable cause supports—frisking or searching citizens are lawful and practical policing practices that law enforcement agencies have used to promote both officer and public safety in the United States for decades. In recent years, stop and frisk has also become a frequent component of targeted policing strategies in high-crime communities. This concentrated, place- and people-based use of stop and frisk has spawned a heated debate about the efficacy, fairness, and legality of this policing tactic as law enforcement practices it today. Given the recent wave of protests, public backlash, court cases, and new laws attacking stop and frisk, this policing strategy is at a critical juncture. As such, this publication guides law enforcement on how to conduct pedestrian stops in a manner that promotes crime control objectives while minimizing negative outcomes that can ultimately undermine police effectiveness.

Stop and frisk is intended to reduce crime by affording officers the opportunity to apprehend criminals in action as well as by reducing the likelihood of future criminal activity through deterrence. According to deterrence theory, the use of stop and frisk in high-crime neighborhoods should decrease crime rates by sending both direct and indirect messages to residents that the risks of apprehension are too high.

Beginning with *Terry v. Ohio* in 1968, numerous Supreme Court cases have established the legality of frisking pedestrians. As long as officers have “reasonable suspicion” that an individual is involved in criminal activity or is a threat to officer safety, he or she is permitted to engage the individual in a stop. A variety of factors can contribute to reasonable suspicion, including the officer’s personal observations, tips from known and anonymous informants, and probabilistic and profiling factors. If an officer comes to believe an individual is carrying a concealed weapon or poses a safety threat during the course of a pedestrian stop, a frisk of the individual to discover weapons is also permitted. During a legal frisk, officers can confiscate and take as evidence items they encounter and clearly identify as contraband. Thus, case law today gives officers significant freedom to detain, question, and frisk individuals who appear to be engaged in criminal behavior.

What remains an open question, however, is the constitutionality of the widespread application of stop and frisk, which may target individuals based on the color of their skin and their presence on the street. Indeed, the application of this deterrence-based strategy and its effects in practice are far from clear-cut. The limited research that has been conducted thus far on stop and frisk’s impact on crime has found mixed results. Therefore, while stop and frisk may indeed be a powerful tool to reduce crime, further research is needed to understand the effects of the practice. Ideally, police departments should track rates of crime and pedestrian stops, along with other information such as incidence of crime, calls for service, and types of crime, over time to disentangle the temporal relationship between pedestrian stops and crime.

In addition to crime-related outcomes, police agencies should consider stop and frisk’s effects on the public’s perception of law enforcement. Research suggests that police officers do not always carry out stops in a lawful or respectful manner; individuals whom the police stop and frisk may perceive the police are treating them unfairly and consider the experience highly negative.



The potential for stop and frisk to influence attitudes toward the police in a negative manner is especially important given that the support of constituents is necessary for police officers to function effectively. Research has found that judgments of procedural justice, or fairness, shape perceptions of police legitimacy, which in turn affect individuals' willingness to empower and cooperate with the police. These effects of legitimacy and fairness persist even in the face of negative outcomes.

Individuals' perceptions of the police may be particularly at risk in minority communities, which have a long history of tense relations with law enforcement. Although research findings are mixed on whether stop and frisk targets minorities disproportionately when they take crime rates into account, minorities nonetheless perceive the experience of police officers stopping them much more negatively than their White counterparts. This disparity is not unique to the practice of stop and frisk; research has found that minorities tend to have less positive views of the police overall. Thus, ensuring the negative outcomes of pedestrian stops are minimized is critical in improving police-community relations and boosting police effectiveness, particularly in minority communities.

Given the current controversy surrounding the targeted use of stop and frisk and the potential for the practice to undermine public opinions of the police, a new strategy for using pedestrian stops must broaden its perspective beyond crime control outcomes. Implementing stops in the context of community policing can help officers use this tool more successfully and promote positive police-community relations.

A community policing and problem solving approach to pedestrian stops will require strong leadership and commitment throughout all levels of a police department. Police executives must prioritize hiring strong candidates that support community policing objectives, provide leadership and training to line officers, improve accountability, convey a vision of integrity to everyone in the department, and work collaboratively with community stakeholders. Police officers too must assume responsibility for changing perceptions of stop and frisk by "selling" each stop they conduct and ensuring that all of their interactions with citizens are lawful and respectful.

Assigning officers to dedicated beats may help achieve community policing goals by giving officers and communities a chance to work together long-term and build a relationship. Although implementing stops in the context of community policing may be a challenging and time-consuming process, involving the community is a necessary next step for improving the effectiveness of this policing tool.

Although this guide summarized current research and best practices related to pedestrian stops, researchers need to address the knowledge gap to draw more definitive conclusions about the practice. Only a handful of studies currently exist that have evaluated the outcomes of various applications of pedestrian stops, either crime-related or otherwise. While these studies provide a useful starting point for understanding this policing practice, many of them are limited in generalizability because they tend to focus solely on New York City or include only small numbers of respondents. Future research will need to take into account how pedestrian stops work in different contexts across the country.

Researchers interested in this topic should also focus on expanding collective knowledge about police practices because the research field knows little about how police officers actually execute stops on a daily basis. Collecting this type of information will help inform the field about what departments are doing well and identify practices and techniques that can serve as positive examples for other jurisdictions.

Finally, forging more and stronger partnerships between police departments and researchers will be extremely helpful for improving a collective understanding of the effects of stops on crime and allow researchers to study the impact of new policies as they unfold. By working together, police departments and researchers can better understand the effects of stops in various contexts and recognize the positive ways in which police departments are already using this important policing tool.

## Appendix A. Urban Institute Roundtable on Police Use of Pedestrian Stops\*

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### Participants

Anthony W. Batts, Police Commissioner,  
Baltimore (Maryland) Police Department

Lorraine Cortés-Vázquez, Executive Vice  
President for Multicultural Markets  
and Engagement, American Association of  
Retired Persons

Ronald L. Davis, Director, Office of Com-  
munity Oriented Policing Services,  
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Robin S. Engel, Professor, University of  
Cincinnati, and Director, Institute  
of Crime Science

Dean M. Esserman, Chief of Police, New  
Haven (Connecticut) Police Department

Jeffrey A. Fagan, Professor, Columbia  
University

Edward A. Flynn, Chief of Police, Milwau-  
kee (Wisconsin) Police Department

Jack R. Greene, Professor, Northeastern  
University

David A. Harris, Professor, University of  
Pittsburgh

Nancy La Vigne, Director, Justice Policy  
Center, The Urban Institute

Garry F. McCarthy, Superintendent,  
Chicago (Illinois) Police Department

Tracey L. Meares, Professor, Yale University

Bernard Melekian, Interim City Manager,  
City of Pasadena, California

Blake Norton, Director of Local Initiatives,  
Council of State Governments Justice  
Center

Michael L. Owens, Associate Professor,  
Emory University

Charles H. Ramsey, Commissioner, Phila-  
delphia (Pennsylvania) Police Department

Carla Shedd, Associate Professor, Columbia  
University

Frank G. Straub Jr., Chief of Police, Spokane  
(Washington) Police Department

James Tignanelli, President, Police Officers  
Association of Michigan

Jeremy Travis, President, John Jay College  
of Criminal Justice

David Weisburd, Professor, George Mason  
University and Hebrew University

### Panelists

Nwamaka Agbo, Deputy Director, Ella  
Baker Center for Human Rights

Rufus J. Faulk, Program Director, Boston  
TenPoint Coalition

Michael L. Walker, Executive Director,  
Partnership for a Safer Cleveland

### Facilitator

Anthony C. Thompson, Professor, New  
York University

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\* Affiliations and job titles of roundtable participants reflect their positions as of November 2013.

## Appendix B. Boston Police Department Field Interrogation Form

<b>BOSTON POLICE DEPARTMENT</b> FIELD INTERROGATION OBSERVATION/FRISK AND/OR SEARCH Check whether: Interrogated <input type="checkbox"/> Observed <input type="checkbox"/> Frisked <input type="checkbox"/> Searched <input type="checkbox"/> Terrorism: Yes <input type="checkbox"/> No <input type="checkbox"/>											
District			Date				Time				
Name (print) Last			First				Initial				
Address											
Alias/Nickname						Location					
Social Security #				Operator's License #				State			
Sex	Race	Ethnicity		Age	D.O.B.	Prior Record <input type="checkbox"/> Yes <input type="checkbox"/> No					
Hgt.	Wgt.	Comp.	Eyes	Hair	Glasses						
Scars - Deformities - Peculiarities - Facial Hair											
Describe Clothing											
Veh. Reg.		State	Make	Year	Body	Color					
Pass. or Driver		Occupation			Where employed or school						
Search <input type="checkbox"/> Vehicle <input type="checkbox"/> Person				Basis <input type="checkbox"/> PC <input type="checkbox"/> RS <input type="checkbox"/> CS							
Reason for Original Stop:											
Reason for Interrogation, Observation, Frisk or Search											
In company with (name & address - surname first)											
1. _____											
2. _____											
Outcome: Seizure <input type="checkbox"/> FIO <input type="checkbox"/> Other <input type="checkbox"/>											
Officer Reporting				Dist./Unit		ID #					
Det. Supervisor/Supervisor				ID #		Date					
ROUTING: Supervisor → Detective Commander → Intelligence BPO Form 2487 7/03											

## Appendix C. Boston Police Department Training Bulletin

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### Boston Police Academy

Lt. Michael A. Chapman

Training Bulletin 5-10  
July 12, 2010



### Frisks During Consensual Encounter

**Can a police officer conduct a frisk during a consensual encounter without having reasonable suspicion that the individual is of unlawful design?**

In a recent decision in *Commonwealth v. Narcisse*, the Massachusetts Judicial Court has clarified the answer to this question.

The facts presented in the *Narcisse* case are as follows: Officers were on patrol in an area considered a “hot spot” with nightly gunfire and drug activity. Earlier that evening, shots had been fired into an apartment approximately one-half mile away. Additionally, due to the killing of an “impact player” from the area the previous night, which took place in Randolph, there was concern over possible retaliatory attacks. The officers observed two unknown males walking down the street and asked who they were and if they lived in the area. The men provided their names and one of the individuals (the defendant) stated that he was from Randolph and had just come from a store. One of the officers found the defendant’s reason implausible and asked if the men would step over to the sidewalk for further discussion, which they did. The officers got out of their vehicle and informed the men that there had been “activity in the area.” After some conversation, one of the officers informed the men that the officers were going to pat frisk them. During the frisk the officers recovered a loaded .22 caliber firearm from the front pocket of the defendant’s jacket.

When considering the above facts, the court found that the commonwealth did not meet its burden to demonstrate that the police officers’ stop and frisk of the defendant were justified by reasonable suspicion that the defendant was engaged in criminal activity and that he was armed and dangerous. The officers acted within the bounds of a consensual field interrogation observation when they pulled alongside the defendant and got out of their vehicle; however, once the officers told the defendant that they intended to pat frisk him, they seized his person within the meaning of the Fourth Amendment. The standard for a “stop and frisk” is not altered by this court’s decision. An investigatory stop is lawful when the officer reasonably suspects that the person apprehended is committing or has committed a criminal offense. Then, to proceed from a stop to a frisk, the officer must reasonably suspect that the

person stopped is armed and dangerous. The two suspicions required may occur simultaneously to satisfy the standard for a “stop and frisk.”

In applying the facts of the *Narcisse* case, the court found that while the officers had ample reason to approach the defendant and his companion, the defendant did not do anything that would arouse suspicion that criminal activity was “afoot” and that he was armed and dangerous. As a result, the escalation to a frisk was not justified.

**A police officer may escalate a consensual encounter into a protective frisk if s/he has a reasonable suspicion that the individual:**

**1. Has committed, is committing, or is about to commit a criminal offense**

**AND**

**2. Is armed and dangerous**

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**References:**

*Commonwealth v. Narcisse* (2010)

*Commonwealth v. Martin* (2010)

*Commonwealth v. Fraser* (1991)

*Terry v. Ohio* (1968)

## Appendix D. Milwaukee Police Department Motor Vehicle and Street Stop Policies

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The Milwaukee Police Department has established a code of conduct comprised of our vision statement, mission statement, core values and guiding principles, and standard operating procedures. This code establishes fundamental standards of conduct and performance consistent with the highest professional standards of policing.

Our vision statement describes what we as a police department seek to achieve. Our mission statement describes how we as department members will achieve that vision. Our core values and guiding principles shape our conduct and performance both on and off duty. Our policies and procedures guide our standards of practice for situations most likely to be encountered in the course of our duties.

The Milwaukee Police Department recognizes the inherent complexity of policing and the use of legitimate discretion by members to confront that complexity. Discretion is, however, limited. Discretion cannot be arbitrary nor used as an excuse for personal inclination when members fail to perform properly. When members confront situations that are so unique that no policy or procedure can guide them, their decisions and interventions must always be consistent with our core values and guiding principles.

### **The Milwaukee Police Department Vision:**

A Milwaukee where all can live safely and without fear, protected by a police department with the highest ethical and professional standards.

### **The Milwaukee Police Department Mission:**

In partnership with the community, we will create and maintain neighborhoods capable of sustaining civic life. We commit to reducing the levels of crime, fear, and disorder through community-based, problem-oriented, and data-driven policing.

The bottom line is our enforcement actions are driven by results, not by activity.

### **How can police departments effectively implement subject stops?**

The Milwaukee Police Department is data-driven which allows our department to focus our attention and resources to crime and disorder by time, location and when applicable, to individuals or groups of individuals. We operate under the belief that when we focus on the right person or persons responsible for crime and disorder, we will see results. Our interaction with the community and enforcement of laws and ordinances are not random, instead it is a purposeful linkage of enforcement and gives proper attention to areas prone to violent crime and disorder. This creates legitimacy, which improves the police/community relationship.



Police work through its nature is inherently complex and the use of legitimate discretion plays a significant role in achieving a desirable disposition. Our rules and policies as a result have been pared to solid fundamentals in the form of a mission and a vision, core values and guiding principles. We act in accordance with these and the knowledge of city, state and federal law. MPD enhances the strategy by incorporating tactical communications (verbal judo) into our structure. Members are instructed through training and realize through experience that gaining voluntary compliance is the goal of all encounters with the community. This goal is generally achieved by using intelligent, non-biased use of police discretion encouraging voluntary compliance with the law and providing as much information to subjects as possible regarding what we are doing and why we are doing so.

**How can patrol officers be held accountable in employing stops and searches only in justifiable cases?**

As highlighted in the prior paragraph, we sell our interactions with stopped subjects by using tactical communications. This is enhanced by the clear verbal and written articulation of our policies and procedures in the form of general orders, memorandums, roll call videos and standard operating procedures.

Subject stops and particularly traffic stops are well documented and analyzed under Chief Flynn's tenure. One of Chief Flynn's first changes to policy was the documenting of the reasons for our stops in CAD records (i.e., public consumption of alcohol, tail light out, etc). During his first years, the number of in car cameras nearly doubled. Cameras are being added continuously with the goal of all patrol vehicles being equipped. Chief Flynn continued forward under a state mandate for law enforcement to record specific information on traffic stops (i.e. stop time, location, race of driver/passenger, if a search was conducted and the results of any search) even after the Wisconsin legislature repealed the act months after implementation. Continuing to collect this data lends credibility and integrity to our traffic stops.

As evidenced by citizen complaint data and department statistics, our subject stop and traffic stops have dramatically increased in the past two years, yet citizen complaints continue to decline.

**What recommended procedures, written policies and training should be developed by law enforcement agencies that engage in the practice?**

Our department routinely conducts in-service sessions which introduce policy with hands on training. Department SOP, rules and procedures (prior to code of conduct), the code of conduct, roll call materials (including roll call video segments) are available at all department computer terminals, including on mobile data computers (MDC). The department's policy, procedures and other vital knowledge has never been so easily accessible as it has since 2008.

### **Are there cultural shifts necessary for successful implementation and sustainability?**

In 2008, the department began Leadership in Police Organizations (LPO) training. The course curriculum is built around a comprehensive leadership development model, which was developed by the International Association of Chiefs of Police through a grant from the Office of Community Oriented Policing Services (COPS Office). To date, approximately 25 percent of the sworn and non-sworn members of the department have participated in the three-week curriculum.

The IACP model reflects documented best practices in the public and private sectors, the military, and the justice system. In recognition of the diversity of police agencies and the communities they serve, the model is designed to be adaptable to an agency's individual mission and philosophy.

The IACP leadership model recognizes that a police organization can no longer rely on a single leader or a small group of leaders. In order to develop leaders, law enforcement executives must first create a culture in their organization that is supportive of dispersed leadership. They need to establish expectations that department members will take leadership actions at their level of responsibility. The model also stresses that training, support, and rewards must be provided to those who do take leadership actions.

Dispersed leadership has five characteristics that not only form the basis for the IACP's Leadership in Police Organizations (LPO) course, but also achieve decentralized leadership conditions. The first characteristic is a **shared understanding** of what leadership means. This provides a common base of knowledge and vocabulary with which to understand and discuss leadership issues. The second principle is **commitment to shared goals and values** by leaders at all levels of the organization. Having a well-conceived and accepted mission, vision, values and goals keeps everyone synchronized. The third concept is that leaders at different levels of the organization do different things. This requires that leadership training to be **flexible and adaptable for a wide range of leaders** with different needs at different places in the organization. Dispersed leadership requires a means to **develop leader skills and knowledge** throughout the organization as well as a means to **determine where an organization and its individuals are developmentally as leaders**. These last two principles of dispersed leadership require a formal training program as well as periodic individual and organization-wide assessments using formal calibrated instruments. This fosters a culture in which leaders are constantly learning about themselves and their organization, adapting their behaviors to the needs of both.

Additionally, cultural diversity training has been incorporated into academy training of new officers and is repeated at in-services about every 3–5 years. A 2011 city council mandate (resolution 110388) will include additional training for our members in the near future.

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## About the Urban Institute

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Established in 1968, the Urban Institute (Urban) is a nonprofit research organization in Washington, D.C. that has long been recognized as an objective, nonpartisan voice by decision makers and the public. Urban's work is multidisciplinary and unique; it includes the analysis of policy options, evaluation of public programs, and investigation of pressing social and economic problems at the national, state, and local levels. Through high quality, open-minded research, the Urban Institute seeks to identify which policies and programs work best in order to foster sound public policy and effective government. Currently, Urban employs 400 researchers across 11 policy centers to promote scientific knowledge and policy reform.

Urban's Justice Policy Center (JPC) conducts research and evaluations to inform and improve justice and public safety policies and practices. Through the combination of rigorous, analytical research and a pragmatic understanding of on-the-ground practices, the Center seeks to provide policy makers and practitioners with objective findings to help improve the safety and well-being of communities across the country. JPC works with a broad range of practitioners, public officials, and community groups, and has extensive experience synthesizing current practice and knowledge about criminal justice issues; conducting original research on each stage of the justice system; evaluating the impact of criminal justice policies and programs; and providing technical assistance to the field of criminal justice.

The Justice Policy Center's research spans a variety of topics, including prisoner reentry, courts and policing, juvenile justice, crime trends and statistics, and crime prevention and investigation. Recent publications by the Center include:

- *Collecting DNA at Arrest: Policies, Practices, and Implications* (2013)
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- *Technology, Teen Dating Violence and Abuse, and Bullying* (2013)
- *Race, Justifiable Homicide, and Stand Your Ground Laws* (2013)
- *Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn, New York* (2012)
- *Evaluation of the Truancy Court Diversion Program in the District of Columbia, 2011–12* (2012)
- *The Growth and Increasing Cost of the Federal Prison System: Drivers and Potential Solutions* (2012)
- *Post-Conviction DNA Testing and Wrongful Conviction* (2012)
- *Social Networks, Delinquency, and Gang Membership* (2012)
- *Supportive Housing for Returning Prisoners: Outcomes and Impacts of the Returning Home—Ohio Pilot Project* (2012)
- *Transition from Prison to Community Initiative: Process Evaluation Final Report* (2012)
- *Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention* (2011)
- *Promoting Partnerships between Police and Community Supervision Agencies* (2011)

## About the COPS Office

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**The Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territory, and tribal law enforcement agencies through information and grant resources.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

Rather than simply responding to crimes once they have been committed, community policing concentrates on preventing crime and eliminating the atmosphere of fear it creates. Earning the trust of the community and making those individuals stakeholders in their own safety enables law enforcement to better understand and address both the needs of the community and the factors that contribute to crime.

The COPS Office awards grants to state, local, territory, and tribal law enforcement agencies to hire and train community policing professionals, acquire and deploy cutting-edge crime fighting technologies, and develop and test innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders and all levels of law enforcement. The COPS Office has produced and compiled a broad range of information resources that can help law enforcement better address specific crime and operational issues, and help community leaders better understand how to work cooperatively with their law enforcement agency to reduce crime.

- Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.
- To date, the COPS Office has funded approximately 125,000 additional officers to more than 13,000 of the nation's 18,000 law enforcement agencies across the country in small and large jurisdictions alike.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than 8.57 million topic-specific publications, training curricula, white papers, and resource CDs.

COPS Office resources, covering a wide breadth of community policing topics—from school and campus safety to gang violence—are available, at no cost, through its online Resource Center at [www.cops.usdoj.gov](http://www.cops.usdoj.gov). This easy-to-navigate website is also the grant application portal, providing access to online application forms.



Police have been stopping, questioning, and frisking pedestrians for decades in an effort to protect themselves and the public from harm and to deter pedestrians from carrying weapons or narcotics. However, pedestrians may view the stop and frisk experience as unjustified and perceive that they are subject to unfair and overly aggressive treatment. These feelings are most pronounced for minorities and those residing in high-crime areas that are targets for intensive stop and frisk activities. Because citizens' views of the police contribute to their willingness to cooperate with and empower law enforcement, minimizing the negative effects of stop and frisk is crucial for overall police effectiveness and is especially important for improving relations with communities of color. This publication discusses the constitutionality and legal precedents of stop and frisk and the theory and practice behind these street stops. This background is followed by a discussion of stop and frisk's unintended consequences and a series of practical recommendations for the lawful and respectful use of pedestrian stops in the context of community policing.



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